JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

Commonwealth of Kentucky,

BEGUN AND HELD IN THE TOWN OF FRANKFORT, ON MONDAY THE SEVENTH DAY OF NOVEMBER, IN THE YEAR OF OUR LORD 1825, AND OF THE COMMONWEALTH THE THIRTY-FOURTH.

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HOUSE OF REPRESENTATIVES.

AT a General Assembly begun and held for the State of Kentucky, in the town of Frankfort, on Monday the seventh day of November, in the year of our Lord one thousand eight hundred and twenty-five, in the thirty-fourth year of the Commonwealth.

On which day, (being that appointed by law for the meeting of the General Assembly,) the following members of the House of Representatives appeared, to wit: From the county of Adair, Cyrus Walker and Zachariah Taylor; from the county of Allen, Walter Thomas; from the county of Barren, Michael W. Hall and Robert D. Maupin; from the county of Bath, Thomas Fletcher; from the county of Bourbon, Henry Timberlake, William Hutchinson and Thomas C. Owings; from the county of Boone, John P. Gaines; from the county of Bracken, Solomon Carter; from the county of Breckinridge, John Sterrett; from the county of Bullitt, Lewis Wilcoxen; from the county of Butler, John Porter; from the county of Caldwell, Enoch Prince; from the county of Casey, Benjamin W. Napier; from the county of Campbell, Leonard Stephens; from the county of Christian, Daniel Mayes; from the county of Clark, Samuel Hanson and Silas Evans; from the counties of Clay and Perry, Alexander White; from the county of Cumberland, Joel Owsley; from the county of Daveiss, Nestor Clay; from the county of Estill, Ansel Daniel; from the county of Fayette, Robert J. Breckinridge, Henry C. Payne and James True; from the county of Fleming, Martin P. Marshall and Richard R. Lee; from the county of Franklin, John J. Crittenden; from the county of Gallatin, David Gibson; from the county of Garrard, George Robertson and John Yantis; from the county of Grant, James Elliston; from the county of Greenup, John M. M'Connell; from the county of Green, Samuel White and Elias Barbee; from the county of Grayson and part of Edmondson, Jeremiah Cox; from the counties of Hardin and Meade, Isaac C. Chenowith and Robert Martin; from the counties of Harlan and Knox, James Farmer; from the county of Harrison, Josephus Perrin; from the county of Hart and part of Edmondson, Adin Coombs; from the county of Henderson, George Morris; from the county

of Henry, Robert Samuel; from the counties of Hickman, Graves, Calloway and M'Cracken, Thomas James; from the county of Hopkins, John Harvey; from the counties of Jefferson and Oldham, Richard Taylor, William P. Thomasson and Samuel M. Brown; from the county of Jessamine, Samuel H. Woodson; from the county of Lewis, Alexander Bruce; from the county of Lincoln, John Green; from the county of Livingston, William Gordon; from the county of Logan, James Wilson; from the county of Madison, Squire Turner, Daniel Breck and David Bruton; from the county of Mason, Robert Taylor and James W. Waddell; from the county of Mercer, John J. Allin, William Wade and Joseph Haskin; from the county of Monroe, James M'Millen; from the county of Montgomery, John B. Duke and Amos Davis; from the county of Muhlenberg, Edmond Watkins; from the county of Nelson, Benjamin Hardin and James Allen; from the county of Nicholas, Samuel Fulton and William M'Clanahan; from the county of Ohio, Dillis Dyer; from the county of Owen, Cyrus Wingate; from the county of Pendleton, Stephen Mullens; from the county of Pulaski, Charles M. Cunningham and John Cowan; from the county of Rockcastle, John H. Slaughter; from the county of Simpson, James Miller; from the county of Shelby, John Logan, Alexander Reed and James Ford; from the county of Scott, Robert J. Ward and James Tarlton; from the county of Todd, Richard B. New; from the county of Trigg, George Street; from the county of Union, William Spalding; from the county of Warren and part of Edmondson, Joseph R. Underwood and James R. Skyles; from the county of Washington, Samuel Grundy, Dabney C. Cosby and John W. Bainbridge; from the county of Wayne, Thomas Hansford; from the county of Whitley, Baker E. Watkins; and from the county of Woodford, William B. Blackburn and Alexander Dunlap; who, constituting a quorum, and having taken the several oaths required by the constitution of the United States, and the constitution and laws of this State, repaired to their seats.

Mr. George Robertson was unanimously elected Speaker during the present session, and conducted to the chair, from whence he made acknowledgments for the honor conferred, and recommended the observance and preservation of good order and decorum.

Mr. Robert S. Todd was unanimously elected Clerk to this house during the present session, was duly qualified and took his seat; and Mr. Richard Taylor was elected Sergeant-at-Arms.

Mr. Ward nominated Mr. Roger Devine as a proper person to fill the office of Doorkeeper during the present session, and Mr. Richard Taylor nominated Mr. James Hunter; and after taking a vote, a majority appearing in favor of Mr. Devine, he was thereupon declared duly elected.

Ordered, That a committee of propositions and grievances be appointed; and a committee was appointed, consisting of Messrs. Blackburn, New, Davis, Hall, Breckinridge, Perrin, Slaughter, Thomasson, Bruce, James and Wingate, and such other members as may, from time to time, choose to attend, who are to meet and adjourn from day to day, and take under consideration all propositions and grievances which may legally come before them, and all such matters as shall, from time to time be referred to them, and report their proceedings with their opinion thereupon, to the house; and the said committee shall have power to send for persons, papers, and records, for their information.

Ordered, That a committee of privileges and elections be appointed; and a committee was appointed, consisting of Messrs. Cosby, Gaines, Brown, Duke, Taylor, (of Adair,) Owings, Clay, Fulton and Watkins, (of Whitley,) who are to meet and adjourn from day to day, and take under consideration and examine allreturns for members to serve in this house during the present session of the General Assembly, and all questions concerning privileges and elections, and report their proceedings, with their opinion thereupon, to the house; and the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of claims be appointed; and a committee was appointed, consisting of Messrs. Ward, Morris, Marshall, True, Sterrett, Stevens, Watkins (of Muhlenburg) and Lee, who are to meet and adjourn from day to day, and take under consideration all public claims, and such other matters as may, from time to time, be referred to them, and report their proceedings, with their opinion thereupon, to the house; and the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee for courts of justice be appointed; and a committee was appointed, consisting of Messrs. Crittenden, Underwood, Green, Logan, Hanson, M'Connell, Walker, Turner, Cunningham, Haskin and Coleman; who are to meet and adjourn from day to day, and take under consideration all matters relating to courts of justice, and such other, as may, from time to time, be referred to them, and report their proceedings, with their opinion thereupon, to the house; and the said committee are to inspect the Journals of the late session, and draw up a statement of the matters then depending and undetermined, and the progress made therein; also, to examine what laws have expired since the last session, and inspect such temporary laws as will expire with this, or are near expiring; and report the same to the house, with their opinion thereupon, which of them ought to be revived and continued. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of religion be appointed; and a committee was appointed, consisting of Messrs. Mayes, Yantis, Grundy, Cox, Wilson, Barbee, Allen of Nelson, Ford, Miller, Wade and Hansford; who are to meet and adjourn from time to time, and take under consideration all matters and things relating to religion and morality, and such other, as may, from time to time, be referred to them, reporting their proceedings, with their opinion, to the house. And the said committee shall have power to send for persons, papers and records, for their information.

Mr. Blackburn moved the following resolution, to wit:

The immediate representatives of the people of Kentucky, to whom the care of the finances of the state are particularly assigned, believing that it is their duty, at all times, to husband the public money and employ no agent except where the services cannot be dispensed with, and knowing from experience that the duties of the different standing committees can be performed by them without the aid of an amanuensis, and that a portion of the public money may thereby be saved: Therefore,

Resolved by the House of Representatives of the Commonwealth of Kentucky, That they will dispense with the services of clerks to the standing committees.

Which being twice read, was adopted.

Ordered, That a message be sent to the Senate, informing that body that this house having met, formed a quorum and elected its officers, is now ready to proceed to legislative business; and that Mr. Yantis carry the said message.

A message from the Senate, by Mr. P. N. O'Bannon:

Mr. Speaker—I am directed by the Senate to inform this house, that the Senate having met, formed a quorum and elected its officers, is now ready to proceed to legislative business.

And then he withdrew.

On motion,

Ordered, That Messrs. Barbee, Richard Taylor, Ward, Blackburn, Underwood and Walker, be appointed a committee on the part of this house, to meet such committee as may be appointed on the part of the Senate, to wait on the Governor, and inform him, that the General Assembly has convened, and is now ready to receive any communication he may think proper to make; and that Mr. Barbee inform the Senate thereof.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate has appointed a committee of three on its part, to act in conjunction with the committee appointed on the part of this house, to wait on the Governor and inform him that the General Assembly has convened, and is now ready to receive any communication he may think proper to make.

The committee then retired, and after a short time returned, when Mr. Barbee reported, that the committee had discharged the

duty assigned them, and were informed by the Governor, that he would be ready to make a written communication, by way of message, to both houses of the General Assembly, in a few minutes.

After a short time, a message was received from the Governor, by Mr. Secretary Pickett; which was read as follows, to wit:

Gentlemen of the Senate,

and of the House of Representatives:

On the annual meeting of the representatives of the people, the first impulse of a grateful heart, is one of thanks to the Almighty Ruler of the Universe, as well for his common favors, as for the peculiar blessings of a free government, which he has granted to the American people. The sickness which, during several preceding years, had committed mournful ravages in many parts of the State, has, by his power, been restrained during the present season. The produce of our soil, though not abundant, is more than sufficient for the general consumption. Want is a stranger in our land; cheerfulness reigns in our dwellings, and peace sheds her benign influence throughout our borders. The people still retain the power of self-government, still enjoy the inestimable privilege of making their own laws, by representatives of their own choice, and of holding every functionary of their government, legislative, judicial and executive, responsible to them for corruption in office, and abuse of official power. Comparing our condition, either local, moral or political, with that of all other nations, who can restrain an expression of gratitude to Him who controls the heart of man and rules the universe?

To you, gentlemen, entrusted by the voice, clothed with the power, and speaking the will of a free people, it belongs to promote their interests, vindicate their rights, and allay their agitations. Elevated by the same voice, and clothed with a portion of the same power, it is my constitutional duty to point out, as far as I have discovered, defects in their laws, abuses in their government, and encroachments on their rights. If I perform this duty in an imperfect manner, I trust to your knowledge and zeal in the public service, to supply all my deficiencies. Coming directly from the bosom of the people, you are necessarily better acquainted than I can be, especially on local subjects, with their wants and their will.

The most prominent objects which will arrest your attention, are the existing differences in our Judiciary, and the encroachments of the Federal tribunals. Since the last session of the General Assembly, there have arisen new causes of alarm and agitation, which demand your immediate and serious attention.

It is several years since an union of local interests, operating upon the public councils, directly invited or silently tolerated the location of two branches of the United States' Bank within our

borders. It was apparent, that those who countenanced this measure did not duly consult the popular will, nor the interests and safety of the State. Soon after their location, the people, justly alarmed for the rights of the State and the purity of their republican institutions, were heard, through their representatives, demanding that those institutions should be removed from the State, or at least be made to contribute towards the support of the State government under which they had sought protection. But the Judges of the Federal Court, assuming to themselves the prerogative of restricting the taxing power of this State, which had been reserved in the adoption of the Federal Constitution, in a manner wholly unlimited, issued their order and restrained the collection of the tax which had been rightfully and constitutionally imposed; and a majority of our late Court of Appeals, after emphatically maintaining that the Bank of the United States was unconstitutional, and that the taxing power of the State had been constitutionally exercised in the act levying the tax, refused to carry it into effect, because the Supreme Court of the United States, a portion of the very government which had made the encroachment, had expressed, in relation to the State of Maryland, a contrary opinion. Since this surrender of the acknowledged rights of the State by those who were made their special guardians, the United States' Branch Banks, exempt from the burthens imposed on the wealth of our own citizens, have proceeded to purchase up the real property of the country, and fill it with tenantry; thus, and by many other means, extending their influence and establishing their power.

It is idle to suppose that institutions sufficiently powerful to set the legislative and executive powers of Kentucky at defiance, would not exert their influence to prostrate the State government, or render it subservient to their interest. It is natural that they should as well attempt to deliver themselves from all embarrassment arising from State legislation, as from the liability to State taxation. Accordingly, these institutions, for a series of years, have carried on a systematic attack upon the legislative power of the State, for the double purpose of curtailing the sphere of its exercise, and rendering themselves wholly independent of its authority. Every proposition to overturn as unconstitutional, statutes whose principles have been sanctioned by all authorities, State and Federal, from the date of the constitution down to the establishment of these institutions, has come from them or their immediate friends. In both our own and the Federal courts, attacks were made upon the validity of these laws. In the latter, the Bank contended that, admitting their validity, they were not binding upon the Federal courts, and could not affect any contract which might be sued upon in those tribunals. The Banks were completely triumphant in both attacks. Our own Court of Ap-

peals decided that the statutes were unconstitutional and void, and the Supreme Court of the Union decided that, admitting their validity, they were not binding upon the Federal courts. They went further; they declared that the Federal courts had a right to make execution laws for the regulation of their own proceedings, without asking the sanction of the people's representatives, either in the State or General government; and the Federal Judges for the Kentucky district have actually made their code, and put it into operation, by which our citizens are imprisoned in direct violation of our laws, and their property seized and sold in modes not provided in their statute book. The power thus assumed and exercised by the Federal Judges, is viewed, both in principle and practice, as nothing short of despotism. A power has erected itself in our State, which deprives our citizens of their liberty and property by arbitrary rules to which they have never assented, either in proper person or through their representatives, in their own Legislature or that of the Union.

The Federal courts had before decided that they have jurisdiction of all suits brought by the United States' Bank; which decision, connected with the power they assume, of making their own execution laws, makes that corporation wholly independent of State laws and State tribunals. Thus, these institutions, located in our bosom, owning a considerable portion of our soil, controlling many of our citizens as their tenants, influencing multitudes by the ties of interest, voting through their numerous officers and dependants in all our elections, and holding in their hands the means of acquiring almost unlimited power, have rendered themselves irresponsible to our government and defy its authority.

The wrongs suffered by this State from the decision of the Supreme Court of the United States, declaring our occupant laws to be unconstitutional, have not been redressed. The remonstrance of a former General Assembly to the Congress of the United States, has been considered by that body, in which many were found who acknowledged our wrongs, and the consequent duty of the general government to grant redress; but we have witnessed no practical result. In the mean time, the injurious decision is spreading its baneful influences. At every term of the Federal Court held in this Town, numerous judgments and decrees are obtained against our peaceful citizens, for the lands and houses which they have honestly purchased, built and improved, and orders given for their execution contrary to our laws. Our limitation acts are also wholly disregarded, and the non-resident landholder or domestic speculator, who has perhaps never paid the first shilling of his just taxes for the support of our government, is permitted to progress with his action against the honest citizen, for lands which he has purchased with his money, improved by his labor, defended with his arms, and paid taxes upon to his government. This

is not all. The faithful citizen who has thus performed every moral, social and civil duty, is, upon eviction, charged with rents upon improvements himself has made, and if he cannot pay them, is subject to imprisonment, under the rules of court. And thus does this Commonwealth suffer those who have improved, supported and defended her, to be stripped of the proceeds of their life's labor, and made the unpitied victims of heartless speculation and assumed power. It is my firm belief, that in the insecurity now felt by numberless cultivaters of our soil, may be found the chief cause of that extensive emigration which is now thinning the population of some of the finest sections of our State. The delay in obtaining redress for our wrongs, and the portentous indications of the times, sicken hope, and drive our industrious citizens unwillingly to seek peaceful homes in other States, where they may sit under their own vine and fig tree, exempt from the evils which fill the mind of the Kentucky farmer with anxiety and apprehension.

I cannot too earnestly press upon you the propriety of again urging the consideration of this subject upon Congress, and of availing yourselves of that occasion to remonstrate, in strong terms; against the power of making execution laws, lately exercised by the Federal Judges in this State, inviting their serious attention to the growing influence of the United States' Bank, and requesting such a change in the charter of that corporation as will make it the duty of the Directors to withdraw the branches located in any State, upon the demand of the State Legislature.

I do not recommend this course because I believe the State has not a right to enforce its taxing power, or even expel the Branch Banks from its limits, by the exercise of its reserved constitutional power. The doctrine of our late Court of Appeals, that an opinion of the Supreme Court of the United States, on subjects involving the rights of the State, is binding and conclusive upon the State authorities, is believed to be not only erroneous, but fatal to the sovereignty of the States. When the general government encroaches upon the rights of the States, is it a safe principle, to admit that a portion of the encroaching power shall have the right to determine finally, whether an encroachment has been made or not? In fact, most of the encroachments made by the general government, flow through the Supreme Court itself, the very tribunal which claims to be the final arbiter of all such disputes. What chance for justice have the States, when the usurpers of their rights are made their judges? Just as much as individuals, when judged by their oppressors. It is, therefore, believed to be the right, as it may hereafter become the duty, of the State governments, to protect themselves from encroachments, and their citizens from oppression, by refusing obedience to the unconstitutional mandates of the Federal Judges. The change effected in

our Court of Appeals, at the last session, is confidently believed to have banished from that tribunal, the doctrine of ready submission to the unconstitutional decrees of the Supreme Court, prostrating the acknowledged rights of this State; and the people will now find, in the head of our Judiciary, a tower of defence against encroachment, instead of a gate always ready to open at the summons of an enemy.

Let it not be imagined, that in making these recommendations, and declaring these opinions, I entertain or intend to express the slightest want of confidence in the general government. Our causes of complaint do not originate in the system itself, but spring solely from the erroneous constructions of the public functionaries who are selected to carry it into effect. The Federal constitution, like our own, is designed to give the public will the ultimate control of its own actions. It has placed none of its offices so high that their incumbents cannot be reached by the voice of the people and pulled down from an unmerited elevation. The executive and legislative powers of the general government, and a portion of the judiciary, have once been reached and reformed; and in the acts and language of the patriots and republicans of those days, we find a precedent and principles in accordance with which the whole of the Federal Judiciary may be made to bend to the power of the people, and renounce its errors. Reformation is all that Kentucky asks, and without it she cannot be satisfied. In the mean time, no respect for the general government ought to induce the State to become the silent instrument of her own degradation. While, therefore, our grievances are laid before Congress, and considered by that body, I would recommend to your consideration, whether the rights and honor of the State do not require that she shall prohibit the use of her jails for the purpose of imprisoning debtors under an authority unknown to her laws and constitution.

The policy of the laws adopted some years since, usually termed the relief laws, it is not necessary to discuss. They have long since been repealed, as to all contracts formed after the repeal, and their operation has almost ceased to be felt in our courts of justice. But the questions of legislative power and judicial right, which have sprung from some of those laws, and outlived them, are of vital importance to the government, as well of this State as of every other in the Union. It will be remembered, that one of those laws granted a replevin of two years, upon all executions where the plaintiff would not consent to receive the currency of the State. A law similar in principle existed in Virginia, our parent State, at the adoption of the constitution, and was re-enacted and amended for several successive years afterwards, extending beyond the period at which Kentucky became an independent State. By examining our own statute book, it will be found, that the same

principle has been practised upon by our own Legislature, from the era of our separate existence, and that it has never, at any one moment, been wholly eradicated from our laws. By looking at the Journals of our Legislature, it will be seen, that nearly all eminent statesmen and lawyers, including two of the late Judges, have, at different periods, voted for similar acts. In the records of our judicial decisions, they had uniformly been recognized as valid acts, and their constitutionality seems never to have been doubted, until the interest of the United States' Bank made it necessary that new and more rigid principles should be incorporated into our system of government. It was then that objections were made in our courts, by lawyers attached to those institutions, which led to the final decision of our late Court of Appeals, declaring that the remedial law in existence when a contract is made, constitutes the obligation, and that no State Legislature can so change that law, as to delay the remedy, without violating that provision in the constitution which declares that no State shall pass any law impairing the obligation of contracts. The Legislature and the country were startled at this decision. It declared void a course of legislation, which had been practised as of unquestioned authority, from the origin of our government. It wrested from the representatives of the people, the power to suspend the operation of the laws, in any case of contract, even in time of insurrection, war, pestilence or famine. It denied to this government a power, which, it is believed, has been exercised by every government of every civilized nation, as well as by every State in the Union, and which is sometimes essential to national existence. If our humble and industrious population is called out in martial array, to suppress an insurrection, which is desolating the country, is it not necessary that the coercive hand of the law shall be suspended while they are engaged in the service? If they volunteer, or are drafted and sent to repel an invading enemy, is there no power in the government, which compels them to march, to suspend the operation of the laws, and prevent the sacrifice of their property, in their absence? By the decision of our courts, these benign and just powers are denied to the State Legislature, and the rigid enforcement of contracts, is deemed of more importance than justice to the absent debtor, or the safety of the Republic.

Many, who believed the existing replevin laws impolitic and unjust, pronounced this decision incorrect; and, indeed, it had at first, but a few advocates in the country. Yet a majority of two thirds, could not be found in the Legislature, prepared to remove the Judges, on account of a respect they had for the men, and a belief that they were honest in their opinions. An animated discussion ensued in the country, and a large majority was returned to the Legislature, instructed to vote for the removal of the Judges. These, when called on to show cause why they should not be re-

moved, defended their decision, and even denied the right of two thirds to remove them, were it as erroneous as was contended. This principle completely confirmed error, and if submitted to, would have enabled the judiciary to effect radical changes in our constitution, under the convenient mask of honest error of opinion.

To end the controversy and rid the country of these erroneous and dangerous principles, the majority now deemed it necessary to resort to their constitutional power of abolishing the court, and establishing another, composed of other men, and restricted in its power over the constitutionality of legislative acts. That they had this power, they could not doubt; because the constitution had not brought any such court into existence, but the first Legislature of Kentucky had established it; because the power of changing, and even re-organizing it, had been once before exercised by the Legislature; because the Supreme Court of the United States, as avowed by the Judges themselves, was created by Congress; because the power of re-organizing courts, and thus expelling their incumbents from office, had repeatedly been exercised by our own Legislature and by Congress; and because the ablest statesmen in the latter body, had declared that the Supreme Court was as much the creature of the legislative power, as the inferior courts. Nor was this construction of our constitution, thought to be dangerous to liberty; because it accords with the acknowledged principles of most, if not all of the constitutions, formed during the revolution, and of most of those which have been formed since.

Influenced by these considerations, as well as by a desire to perpetuate correct principles in the current of our judicial decisions, and give quiet to an agitated country, the last Legislature passed the act abolishing the existing Court of Appeals, and establishing another, which was approved by the Executive, and the new court was immediately put into operation. Nevertheless, the former Judges have still claimed to be in office, and have continued ot meet in the capital, at the regular terms of the Supreme Court of Appeals, assuming to exercise the appellate judicial power of this government. It was thought by some to be the duty of the Executive, who is entrusted by the constitution with the execution of the laws, and sworn to perform that duty, to interpose his authority, and suppress this open contempt of law and order. But as no effort was made by them to give or execute judgments or decrees, and as their meetings were not attended with any breach of the public peace, it was not thought the duty of the Executive to molest them, or in any manner to obstruct their proceedings. At a late meeting, however, they exhibited an inclination to proceed in the exercise of judicial power, and force the execution of their orders, judgments and decrees, throughout the State, in direct hostility to the existing court, and an act of the General Assembly, which

the Executive is bound by the constitution and his oath, to see duly executed. I need not inform the Legislature, how unpleasant will be the duty which such a course of conduct, on the part of the former Judges, will impose. Nor need I tell them, that painful as it may be, the Executive will not shrink from the performance of that which he conceives himself bound to do by his oath of office and the constitution of his country.

Though a farmer, I have, by the favor of the people, enjoyed many offices of public trust. As it always has been, so it is now my earnest desire, to perform the will of my constituents, and promote the peace and prosperity of my country. On the subject of our judiciary troubles, it has been my earnest endeavor, to obtain light from the general intelligence, and pursue that course which should be dictated by the public wisdom and will. Instead of quieting the country, as was ardently desired, the act of the last session re-organizing the Court of Appeals, together with other causes, made to operate, has filled it with new agitations. The people, who, for several successive years, had expressed themselves dissatisfied with the former Judges, have also expressed their dissatisfaction with the arrangements of the last session, and would seem to demand another change. I have applied the best efforts of my understanding, to learn the public interest and will, and I should fail in the performance of my duty, if I did not communicate to you, that which I believe will restore harmony to the State, and enable the government to devote its energies to the improvement and permanent interests of the country. It is an undoubted fact, that neither the former Judges, nor the present incumbents, can unite upon themselves the confidence and respect of both the contending parties into which our population is divided. Nor can either proceed to exercise judicial power, without doubts in the minds of many, as to the validity of their acts. The new court is deemed by many to be unconstitutional, and its acts void; and were the re-organizing act repealed, the same doubts would extensively hang around all the acts of the former Judges, unless they should receive new appointments and commissions, from the Governor and Senate. It is of great importance to the State, that the Judges of the appellate court should not only have the entire confidence of the whole people, but that their authority should be deemed by all parties unquestionable. To accomplish these desirable ends, the way is believed to be open to the present General Assembly. I have the fullest confidence that the present incumbents in the Court of Appeals, will present no obstacle to any pacific arrangement which the Legislature may adopt; and although it may not be usual for the Executive to give assurances beforehand, of the course he will pursue upon a probable or a possible event, yet the extraordinary circumstances of the times, and the peculiar attitude in which I am placed, seem to require of me the frank declaration,

that should any measure be adopted by the General Assembly, with the view of quieting the troubles of the country, by the appointment of an entirely new set of appellate Judges, I shall feel myself bound to select them equally from the two contending parties. However this recommendation and assurance may be received by violent partizans, I have, in making them, discharged what appeared to me to be a sacred duty; and I leave the result to God and the people. If our agitations shall be thus ended, it will be happy for us all; if they are to be continued, I shall endeavor to perform, through scenes yet untried, with fidelity and zeal, the arduous duty entrusted to me by the people, of seeing the laws executed in good faith, and preserving the peace of the country.

In any event, a change in the acts passsed at the late session, relative to the Court of Appeals, seems to be required by the public voice, and would not operate to the detriment of the public interest. I, therefore, recommend the reduction of the salaries of the appellate Judges, to the former standard of fifteen hundred dollars. This is the more equitable, as that sum is rendered, by the appreciation of the currency, fully equal to two thousand dollars, when the salaries were fixed at the last session.

In the appreciation of the currency, and the condition of the Treasury, you will also find reasons for a general revision and curtailment of salaries, and other public expenditures. It should be the object of a republican government, to give only that compensation to public officers, which will purchase the faithful performance of their respective duties. Above all things, our government should avoid sinecure offices. It is worthy of inquiry, whether there are not now offices in this State, held by men who perform none of their duties, finding their salaries sufficiently liberal to hire deputies with a portion thereof, and live upon the residue. Why should not the State pay the deputies directly, and discharge the principals, thereby saving what she now pays for the support of incompetency or idleness?

Your attention is particularly called to the salaries now paid to the President and other officers of the Bank of Kentucky, and the Bank of the Commonwealth. In many cases, they are believed to be strangely disproportioned to the services rendered, and will bear a liberal reduction. It is also believed, that many of the subordinate officers may be dispensed with altogether, and their entire compensation saved to the State; while they may contribute to the augmentation of its wealth, in other employments. Indeed, it is worthy of consideration, whether the Branches of the Commonwealth's Bank might not all be discontinued, and the business of each entrusted to an agent, with an adequate compensation. As it is not contemplated to re-issue the paper or extend the business of the Bank, no reason is perceived why an agent cannot receive the

calls and discounts upon the existing notes, as well as the officers of an organized Branch.

Your attention is called to these points, merely as examples. The state of the Treasury requires, the increase in the value of the currency will justify, and the principles of republican economy demand, a general revision and reduction of public expenditures. By taking the Auditor's annual reports and tracing them through, many items can be found which will bear material reduction, or may be entirely dispensed with, without detriment to the public service. Nor should the attention of the Legislature be confined to the expenditure of the people's money through the public Treasury. There are many public officers, whose compensation is derived immediately from the people, by means of fees and commissions. A reduction of these, wherever they will bear it, is as essential to the interest of the people, as to protect the outlets of the public Treasury.

The subject of Education, is one which should ever engage the attention of the friends of equal rights and a republican government. In no manner can the public means be more beneficially employed, than in diffusing among the people that degree of intelligence, which will enable them to understand and appreciate the principles and benefits of free institutions. The only literary establishment directly under the superintendence of the Legislature of Kentucky, is the Transylvania University. This institution has been a favorite of the State, and has drawn with a liberal hand, upon the funds of the people. Yet it is believed, that in its benefits it has not equalled the reasonable expectations of the public; and that for several years, its expenditures have been extravagant in amount, and lavished upon objects which were calculated to make the State but an inadequate return for her almost unbounded liberality. The University, its funds, and all its resources and appendages, are public property; and it is the duty of the representatives of the people, to make a rigid examination into all its appropriations and accounts. It is generelly understood, that a compensation has been allowed to the President, directly and indirectly, twofold higher than is paid to the highest officers of our State government, and wholly disproportioned, as well to the services rendered, as to the resources of the institution. A compensation almost as extravagant, is believed to have been made, directly and indirectly, to some of the Professors. To make up these extravagant allowances, the prices of tuition are raised to a very high rate, which, with the habits of profusion acquired in the society of a large town, effectually shut the door of the University to a large majority of the young men of Kentucky. The only motive a republican government can have to foster such an institution, is, to bestow on all, as far as they may desire it, the blessings of a liberal education. But as the University is now managed, it seems that

the State has lavished her money for the benefit of the rich, to the exclusion of the poor; and that the only result is to add to the aristocracy of wealth, the advantage of superior knowledge. It is, therefore, your duty to enquire into the management of this institution, and if abuses exist, correct them, so far as to extend its benefits as far as in its nature is practicable.

But there can be no improvement in one University, which will make it the means, to any considerable extent, of promoting the great object which the State must have in view. If we desire that our posterity shall be enabled to perpetuate the great principles of equality, and enjoy that liberty which rests upon it, we must afford opportunity and encouragement for the education of all, to an extent at least sufficient to enable them to understand the one, and duly appreciate the other. This cannot be done by one institution of learning, nor by any number of colleges in the principal towns, nor even by academies in every town, as these would be beyond the reach of the great majority of the fathers of families. We must carry the schools home to the people, establish them in districts of such dimensions that all parents may furnish boarding for their own children, and save the expence; that they may have the benefit of their labor in the most busy seasons of agricultural employment, and send them to the schools in the leisure months; and may clothe them in such garments as the family manufacture, which may be suitable to their means. On this plan, and this only, can the patronage of the government be extended equally to all, and the benefits of literature be diffused throughout the whole body politic, and a sufficient degree of popular intelligence preserved in future generations to ensure the preservation of our free and liberal institutions. On this plan, too, all the great geniuses of the country will be brought out to public usefulness; whereas, by the present plan, the most energetic intellects remain bound in the chains of ignorance, and borne down by poverty, whilst thousands of both public and private funds are lavished, in many instances, on those whose minds nature never formed for greatness. Put into full operation a general system of Common Schools, and wherever there is extraordinary genius, the shackles will be broken from it, and it will by its own energy and influence obtain the necessary aids for higher improvement. That there will be great advantages in such institutions above those on a larger scale, merely on account of their establishment in the country instead of towns, every man who has attended to the effects of a town life on the habits of youth, must be sensible. The opportunity that will be afforded to rear the youth alternately to labor and study, will be great indeed. Every consideration, moral, political and religious, urges us to go earnestly to work to put into operation a system of Common Schools. The system was projected several years ago, and it is believed almost universally approved. But there are

some grounds for the suspicions of many, that although some were sincere in the promotion of Common Schools, the project was published more as a feint to content the people with large appropriations of public money that were then made to Transylvania, than with any view to carry it into actual operation.

The people are discontented with this monopoly of the public patronage and money for the benefit of an institution so completely beyond their means, and call on you to bring its advantages home to them. They have felt themselves taxed to aid in educating and accomplishing the sons of the wealthy, and know there can be no difficulty in correcting the principle, and adapting it to such a system as will require the wealthy to contribute something towards maintaining schools whose advantages all can share. I beseech you then to enter upon the work with earnestness and with a zeal which becomes the great cause of learning. In means, there can be no difficulty, if you determine on the end.

In the suggestions I make concerning the University, I would not be understood as hostile to its uses. On the contrary, I have, with many of my fellow-citizens, viewed it with pleasure; and I believe that, if properly conducted, it would form an important and highly useful part of the great system of Public Education, which I desire to see in operation.

Next to the education of youth, I would urge on your attention the speedy commencement of a general system of Internal Improvements.

An official notification has been received by me from the President of the Louisville and Portland Canal Company, by which it appears that the whole capital stock of that company has been subscribed for, and that such measures have been taken as will ensure the completion of the canal within the time limited in the charter. It may therefore be fairly presumed, that this important work, so long desired by the citizens of our own and other States, will be achieved by the company incorporated at the last session of the General Assembly.

Louisville is now, and must continue to be, the emporium of the commerce of the principal part of the State. I would suggest the expediency of immediately commencing two great Turnpike Roads from that place; one to pass through Frankfort and on to Maysville, the other to pass through the middle district and across the Green River Country, in the direction to Nashville in Tennessee. That State would doubtless extend it through her territory. But it would be proper that a negotiation be opened with that government, to obtain a pledge of co-operation and to settle the location of the way. From these two great highways, other diverging roads may be made, whilst their construction is in progress.

To establish a general system of Schools, and to make considerable progress in an extensive scheme of Public Improvements, we

have ample resources. In the Stock in the Bank of Kentucky, and the profits of the Bank of the Commonwealth, we shall have a considerable disposable capital. In the debt due for the sale of vacant lands, and in our public lands yet unappropriated, we have an extensive resource. It is also believed, that in estates escheated to the government for defect of heirs, by conveyance to foreigners, and where grants have been made to aliens who have not become citizens within the time limited, the State has a considerable property. There has also been a large amount of lands forfeited or sold to the State for the non-payment of taxes, which have not been redeemed. A general examination into all these subjects, is earnestly recommended.

The improvement in the currency in which the taxes are collectable, will considerably increase the burthens of the taxes upon the people. It is proper, on this account and on other considerations, that your attention be particularly directed to this subject. It had been the practice of a portion of the commissioners, for several years past, to value the property for the *ad valorem* taxation, in specie, whilst the estimates were generally made in currency, which produced a considerable inequality in the assessments. To remedy this manifestly unjust operation, an explanatory statute was passed at the last session, requiring all the estimates to be made in the currency. It was certainly proper to fix one standard by which all should be taxed. But the increase in the value of the medium, since the assessment, which was not anticipated by the last Legislature, will be found to increase the taxes considerably, as well as the difficulty of paying them. But no taxes have yet been collected under the valuations made in pursuance of that act. Those collected in this year, were on the assessment of the year 1824; and not until next year, will the taxes assessed under the statute referred to, become payable. You, therefore, have it in your power to direct such a sum to be collected on the assessments made under the statute, as will not only prevent an increase, but you may even diminish the burthen. In the present system of taxation, it is believed, considerable improvements may be made, which will have the effect of greatly diminishing the sums to be collected from the laborious husbandman, and yet obtain a sufficient revenue to defray all the periodical expences of Government, after they have been suitably retrenched. The list of articles subject to specific taxation may be greatly increased. It ought to embrace all those of luxury and extravagance, and such as are of no public advantage. By embracing those articles, you will be enabled to exempt some now taxed, which are certainly not the proper subjects of taxation.

There is one species of tax to which I am constrained to call your particular attention. It is that which is levied and appropriated exclusively by the county courts, a body of men in

whose appointment the people have no part. This tax is levied exclusively upon the heads of the people, old and young, without any regard to their ability to bear it; and whenever the young son of the husbandman is taxed, the father has to pay for him; thereby taking the pittance out of the hands of the father, that ought to go to educate the son. This system was borrowed from the country where the qualification of electors is bottomed on the soil; where no man is entitled to the right of suffrage, unless he possesses a freehold estate, and is a link of the same chain. It is impossible to consider this subject without becoming satisfied of the great injustice done by this mode of raising money for public purposes. It will be found, that the sums thus raised in many counties, far exceed the revenue tax; and perhaps, taking all the counties in the State collectively, there is nearly as heavy a sum collected by the poll tax, as there is on property. I would recommend that the money necessary for county purposes be raised by a tax on the same articles which are taxed for the revenue. This may be done without any additional expence in the assessment, as the county court may use the lists of taxable property made out by the commissioners annually appointed. It may also be proper that some law be made whereby the lands situated in each county may be subjected to a portion of the burthens of the proper county. But whether this matter be of sufficient importance to require a special act, is submitted to your consideration. It will be remarked, however, that without some such provision, the lands of non-residents, as well as those belonging to the United States' Bank, will remain wholly exempt, as they now are, from all taxation for county charges.

I cannot, consistently with my duty, refrain from again calling the attention of the Legislature, to the confused and uncertain state of our execution laws. It is almost impossible that they should be understood by the bench, the bar or the ministerial officers of the government, much less by the great mass of the people. Surely such a revision might be made, as would reduce the chaos now existing in our statute book, to something like order, in one comprehensive act, which should be explicit and intelligible.

Nor can I refrain from again expressing my belief, that the restoration of the Associate Justices, to the benches of the Circuit Courts, would prevent delays in the administration of the laws, promote substantial justice, and be more consonant, than the present system, to the genius and spirit of our free institutions.

An act of Congress, passed at the last session, gives to the Adjutant General of the militia of each State the privilege of interchanging communications with the Major Generals and Brigadier Generals, free of postage. As the militia is measurably a national establishment, the undoubted object of this act was to relieve the States from a considerable burthen upon their treasuries, incurred by their military correspondence. I would recommend such chan-

ges in the militia laws as will enable this State to avail herself of the liberality of Congress in its fullest extent.

From the deranged state of our militia, neither improvement in discipline, nor any other material benefit, is to be expected from it. A general revision of the system would seem to be desirable, by which the establishment may be placed on a more respectable footing. The scanty attendance on parades, arising from a want of discretionary power in the courts for the assessment of fines, under proper limits, produces numerous resignations, which not only derange the system, but have become expensive to government. Your attention is particularly called to this subject.

I am happy in being able to present you a favorable view of the present condition of the Penitentiary. That institution, originating in the best feelings of our nature, had unfortunately for some years previous to the late change in its management, been a burthen upon the State. Thus the honest and industrious part of the community was taxed to support those whose crimes would in other countries have been capitally punished; and whose lives, spared by the clemency of our laws, were scarcely maintained by their own labor. But under the new arrangement, the affairs of the institution wear a different aspect. Instead of needing aid from the public funds, it bids fair, not only to defray its own expences, but to become a permanent source of revenue to the State. Indeed, every consequence of the late change has been thus far of the most happy character, and has realized the anticipations of its warmest advocates. The present keeper has instituted several new branches of manufacture, and introduced much labor-saving machinery. The articles manufactured are now afforded at a less price than was formerly fixed upon them. In fine, it is believed that by the present arrangement, public economy and public philanthropy are no longer at variance; that the interest of the State, by being identified with that of the Keeper, is placed upon the surest footing; and that the comforts of the prisoners, and the prospect of their reformation, are equally improved.

Pursuant to the request of the last General Assembly, I discharged the pleasing duty of inviting General Lafayette to become our guest. The invitation was accepted; and such arrangements were made for his reception by a committee of gentlemen whom I selected for the purpose, as were thought most conducive to the gratification of our distinguished visiter, and to the honor of the State. Proper estimates and vouchers for the expences incurred by the State in the entertainment of the General and his suite on his way from Louisville to Cincinnati, with those of the preparations at the seat of government, will be submitted to you at a subsequent day of the session, when the propriety of covering the whole by an express legal appropriation is suggested. The appearance among us of the venerable soldier, the principal object of whose

life, as evinced by the uniform tenor of his actions, has been the establishment of rational freedom in both hemispheres, was well calculated to diffuse joy through the community. His presence revived in the old, recollections of that eventful period when his accession to our cause brought new hopes of success; while in the young it increased the admiration with which he has ever been regarded. Kentucky, it is hoped, has not fallen short of her sisters in demonstrations of respect to their common benefactor. She has bestowed on him the sincerest tributes of her esteem and affection, and her best wishes attend him to his native country.

Be assured, gentlemen, that nothing shall be wanting on my part calculated to give dispatch to the proceedings of the Legislature in the exercise of their important duties. Recommending harmony, which probably may eventuate in a short session, and enable you at an early period to return to the bosoms of your families, I close this communication with wishing a judicious and honorable termination to your legislative labors, with sincere assurances of the faithful zeal with which my co-operating duties shall be discharged, and with invocations of the blessings of Heaven on the various means that may be employed to promote the welfare and maintain the rights of the people.

JOSEPH DESHA.

FRANKFORT, Nov. 7, 1825.

Ordered, That the public printers forthwith print five hundred copies of the said message, for the use of the members of this house.

Mr. Crittenden read and laid on the table the following resolutions, to wit:

Kentucky, and its Legislature, are called to mourn the loss of one of their ablest and most distinguished citizens. COL. SOLOMON P. SHARP, one of the representatives elect from the county of Franklin, the fond husband, the affectionate father, the able jurist, has fallen in the prime of life, by the hand of an assassin; murdered at the dead hour of last night, in his own house and in the bosom of his family. This Legislature, participating in the sorrow of his friends, and feeling the great loss sustained by his family and country, as an expression of their feelings on this mournful and distressing occasion, it is

Resolved by the General Assembly of Kentucky, That they will wear crape on their left arms, during the present session.

Resolved, That a committee of four from the Senate and eight from the House of Representatives, be appointed to make arrangements with the friends of the deceased, as to the time and manner of his burial.

Resolved, That the members of the Legislature will attend the interment of the deceased.

And thereupon the rule of the house being dispensed with, the said resolutions were taken up, twice read and unanimously adopted.

Ordered, That Mr. Crittenden carry the said resolutions to the Senate, and request their concurrence.

Mr. Nicholas D. Coleman, a member returned to serve in this house from the county of Harrison, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States, and the constitution and laws of this State, and took his seat.

Mr. Crittenden read and laid on the table, the following resolution:

Resolved by the Senate and House of Representatives, That the Governor of this State be, and he is hereby authorised and requested to make proclamation of the murder and assassination of Col. Solomon P. Sharp, and to offer a reward of three thousand dollars, to be paid out of the public Treasury, for the detection and apprehension of the assassin.

And thereupon the rule of the house having been dispensed with, the said resolution was taken up, twice read and adopted.

Ordered, That Mr. Prince carry the said resolution to the Senate, and request their concurrence.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz.

Gentlemen of the House of Representatives:

The sheriff of Franklin county has certified to me, that Solomon P. Sharp, Esq. who was elected one of the representatives of that county in the present General Assembly, departed this life early this morning. As the vacancy took place so recently before the meeting of the General Assembly, I have thought it advisable to transmit the certificate to you, in order that a writ of election may be issued thereon by the proper officer of your house.

JOSEPH DESHA.

November 7, 1825.

State of Kentucky, Franklin County, Sct.

I certify to the Governor of the State aforesaid, that between two and three o'clock this morning, Solomon P. Sharp, Esq. who was elected to represent this county in the House of Representatives of the General Assembly, at the last August election, departed this life. Witness my hand and seal, this 7th November, 1825.

D. C. FREEMAN, D. S. *for*
J. Walker, S. F. C.

On motion,

Ordered, That the Rules of the last, be adopted as those of the present session; and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

And then the house adjourned.

TUESDAY, NOVEMBER 8, 1825.

Ordered, That Messrs. Prince, Allin, (of Mercer,) Payne, Timberlake, Thomas and Napier, be a committee of enrolments on the part of this house; that Mr. Prince inform the Senate thereof, and request an appointment on the part of that body.

Mr. Breck presented the petition of Absalom Oldham, of Estill county, contesting the election of Ansel Daniel, Esq. the member returned to serve in this house from said county of Estill, and representing that *he* received the highest number of legal votes given, and is duly elected, and praying to be admitted to take his seat in lieu of the said Ansel Daniel.

Which was received and referred, (the reading thereof being dispensed with,) with the accompanying documents, to a select committee of Messrs. Hanson, Hardin, Woodson, Ward, Haskin, Gordon and Fletcher.

Mr. Hardin moved the following resolution, to wit:

Resolved, That to the standing committees of this house, there be added a committee of ways and means, and that said committee consist of seven.

Which being twice read was adopted; and Messrs. Hardin, Breck, Woodson, Taylor, (of Mason,) Owings, Bruton and Harvey, appointed conformably thereto.

A message from the Senate, by Mr. Chilton, their Secretary:

Mr. Speaker—The Senate concur in resolutions which originated in this house, occasioned by the death of Col. Solomon P. Sharp, and in a resolution authorizing the Governor to offer a reward for the apprehension and conviction of the murderer of Col. Solomon P. Sharp, with amendments to the latter resolution, in which they request the concurrence of this house.

And then he withdrew.

The said amendments were then taken up, twice read and agreed to.

Ordered, That Mr. Fulton inform the Senate thereof.

Whereupon, Messrs. Crittenden, Breck, Hardin, Underwood, Ward and Fletcher, were appointed a committee on the part of this house, pursuant to the former resolutions.

On motion,

Ordered, That the Clerk of this house be permitted to avail himself of the assistance of Mr. James Stonestreet, in executing the duties of his office during the present session.

Mr. Richard Taylor moved the following resolution:

Resolved, That so much of the Governor's message as relates to the judiciary, be referred to the committee on courts of justice, with permission to report by bill or otherwise. And for the better enabling said committee to discharge their duty, so far as relates to the Court of Appeals, *resolved further*, that it is the deliberate and solemn opinion of this house, and of a large majority of the good people of this Commonwealth, herein represented, that the act entitled "an act to repeal the law organizing the Court of Appeals and organizing a Court of Appeals," is unconstitutional and void, so far as it purports to repeal or abolish the Court of Appeals, and erect and establish another court in its stead; and that the Court of Appeals so attempted to be repealed and abolished, having been created by the constitution, is (the said act notwithstanding) the Supreme Court of this State; and the Judges thereof, having neither resigned nor been removed from office, by either of the modes recognized and provided by the constitution, are still in office, and should be so considered and respected, by all the functionaries of the government.

Which being twice read, a division of the question was called for, and the question was first put on the adoption of the first branch thereof, (printed in italics,) which was decided in the affirmative.

The question was then put upon the adoption of the second branch of the resolution; which was decided in the affirmative—yeas 60, nays 36.

The yeas and nays being required thereon by Messrs. Ward and M'Connell, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchinson, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lee, Martin, Manpin, M'Clanahan, Miller, M'Millen, Mullens, Napier, Perrin, Porter, Prince, Samuel, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins, Wilmoxen, Wingate and S. White.

Mr. Hall moved the following resolution:

Whereas the pecuniary embarrassments of a large portion of the most enterprizing and valuable citizens of our country, had led to a course of legislation that introduced a paper currency, as the medium of circulation, which has been received in payment of taxes and constituted the only means of government to reward the services of the public agents, and as this paper depreciated, it had

the effect of reducing all the salaries in the State, corresponding with the reduction of the resources of the country, by its general distress. However questionable in point of policy, the course of legislation, alluded to, might have been in relation to private transactions, all must acknowledge both the right and propriety of a government from time to time apportioning the compensation of its public functionaries, to the abundance or scarcity of money, and the resources of the community; and it is believed that all the officers of the State have acquiesced in the justice of this principle, as few, if any, have resigned on that account; nor has any difficulty been experienced in finding meritorious candidates to fill every vacancy; and as recently the currency has greatly appreciated, and is likely to continue to appreciate, which has had the effect of producing a corresponding increase in the value of the pay of all public officers of the State, who either receive fees or fixed salaries; and from the low state of our finances, the reduction of public expences, or an onerous increase of taxes, is indispensable, in order to maintain public credit and carry on the government; and as the community are just resuscitating from their pecuniary distresses and embarrassments, and fast returning to a sound and healthy medium of circulation, the scarcity of which will be, for a while, severely felt, more particularly by the laborious part of society, by whom the burthen of taxation is chiefly borne, it is deemed inexpedient, at this time, to increase their distresses by an increase of taxes.

Resolved, therefore, by the House of Representatives of the Commonwealth of Kentucky, That a general reduction of fees and salaries should be provided for by law, corresponding, in some degree, with the appreciation of the currency of the country, and that a committee of ——— members be appointed to draft and bring in a bill for that purpose.

Which being twice read, was referred to the committee of ways and means.

Mr. Turner moved the following resolution, viz.

Resolved by the House of Representatives of Kentucky, That James G. Dana, Amos Kendall and Patrick H. Darby, be permitted to take their seats in the representative chamber, for the purpose of taking sketches of the proceedings and debates of this house.

Which being twice read, was adopted.

Mr. New moved the following resolution:

Resolved by the House of Representatives, That so much of the Governor's message as relates to the public lands of this Commonwealth, be referred to a select committee of five members.

Which being twice read, was adopted; and Messrs. New, Gordon, James, Prince, Street and Porter, appointed a committee pursuant thereto.

Mr. Richard Taylor presented the petitions of sundry citizens of Oldham county, relative to the seat of justice thereof; which was received, and the reading being dispensed with, referred to the committee of propositions and grievances.

The Speaker laid before the house a letter from the Auditor of Public Accounts, covering his annual report of the situation of that office, &c.; which letter and report were read in the following words, viz.

STATE OF KENTUCKY, AUDITOR'S OFFICE,
Frankfort, 8th November, 1825.

SIR—You will be so good as to lay before the house over which you preside, the accompanying documents, from No. 1 to 8, inclusive.

Whether it becomes me as Auditor of Public Accounts, to offer to the Legislature my views as to the practical operation of any acts, which they in their wisdom may deem expedient, or not, is doubtful. But having observed with some attention, the results of some, if not all the laws in relation to the Revenue, and believing that an improvement may be made in our financial system, I have ventured to offer the following remarks on that subject.

The act of the last session of the Legislature in relation to champerty and maintenance, gave to one class of non-resident claimants of land, viz. those whose claims had never been entered for taxation, the privilege, until the first day of August last, to list their lands with the Auditor for taxation, and pay up the taxes and interest due thereon. It is believed that the largest portion of claimants of this description, were not apprised of the privilege until the time had expired, and in many instances where they were informed of the liberty and were desirous of saving their lands, the amount of tax and interest exceeded the value of the land, and they of course would not pay it. Nevertheless, the revenue has been benefited somewhere about $6000, and it is thought, that had the privilege been given without demanding the interest, it would have been benefited at least 15 or $20,000. It is with the Legislature to say, whether they will revive the privilege and modify it in such a way as will exempt the holders of claims of this description from the interest, and extend the time so far as in their wisdom they may think necessary to afford ample notice.

The holders of lands that have heretofore listed them for taxation, and whose lands have been stricken off to the State for the non-payment of the taxes as they became due, and the time of redemption having expired, were pretermitted in the act above alluded to, and it would seem that no good reason could be adduced for the distinction. Some considerable advantage may be anticipated to the revenue, should the Legislature think proper now to let them redeem and re-enter their lands. The Legislature

might then, with great propriety, adopt a system of forfeiture by way of escheat, which has heretofore been recognized by the Courts of the United States, as coming within the legitimate exercise of the powers reserved to the States, and thus save those unhappy collisions which now exist between the Federal and State Governments, and in the course of a few years put at rest forever those dormant claims.

The just expectation of the Legislature has not been realized in the establishment of the Lunatic Asylum. This is owing in part to the privilege given to the committees and relatives of this unfortunate portion of the community to retain the Idiots at the rate of $50 per year. Could the Asylum be fitted up with buildings spacious enough to contain the whole of this description of persons in the State, it is thought that $10,000 would be amply sufficient for their comfortable support. Would it not therefore be wise in the Legislature to repeal the law in relation to idiots and make the necessary appropriation to complete the buildings?

Some inequality will necessarily result from the late change in the mode of valuation of taxable property, owing to the variableness of the medium in which it is valued. About the time the commissioners began to take in the lists, the paper of the Commonwealth's Bank was at two dollars for one in specie, and when they finished, it had risen in value fifty per cent. Thus it would seem that some more permanent standard should be adopted.

The Auditor is frequently much embarrassed in the collection of the revenue, by an almost indiscriminate grant of indulgence to the Sheriffs, who too frequently apply the public money to private speculation, and then rely upon legislative aid to shield them from a judgment. I would therefore suggest the propriety of permitting the Auditor, in future, to take judgment in all cases, and if an extension of time for the collection of the revenue be necessary, let it extend to the suspension of the execution only.

The establishment of new counties has been a fruitful source of expenditure as well as *crime*. Increase of offices, tippling shops and idleness are the general concomitants of the erection of new county sites.

With great diffidence and respect,

I subscibe myself, sir,

Your most ob't. sev't.

PORTER CLAY, *Aud. P. A.*

GEORGE ROBERTSON, ESQ.

Speaker of the House of Representatives.

No. 1.

A Statement of Moneys received and paid at the Treasury, during twelve months, ending on, and including the 10th day of October 1825, to wit:

Received for the revenue collectable by sheriffs, for the year	1796,	20 00	
Ditto,	1820,	858 54	
Ditto,	1821,	1,563 48	
Ditto,	1822,	1,373 53	
Ditto,	1823,	66,663 08	
Ditto,	1824,	1,697 91	72,176 54
For Bank Stock Fund, to wit: On lands granted under the acts of 1815, 1820 and 1825,		8,358 67	
Ditto, under the acts of 1795, 1797 and 1800,		2,425 72	
Ditto, under the acts for appropriating the land acquired by the treaty of Tellico,		120 35	10,904 74
For tax on non-residents' lands,			9,275 86
For purchasers of non-residents' lands,			11 74
For miscellaneous receipts,			1,704 96
For tax on law process, &c. received by the clerks of the different courts; for tax on seals, received by the Secretary of State, and for fees received by the Register of the land-office,			11,863 34
For amount received from the Agent of the Penitentiary,			3,689 99
For amount received from the Bank of Kentucky, for the distribution of stock,			119,340
For amount received from the Bank of the Commonwealth of Kentucky, as revenue,			66,148 71
For amount received for the sale of land warrants west of Cumberland river, in the State of Tennessee,			5,171 80
Ditto east ditto ditto,			407 50
For amount received for the sale of lands west of Tennessee river,			11,400
Total amount received,			$312,095 18

PAID, SAME TIME.

Warrants reported to have been paid by the Treasurer,	171,332 33
Stock subscribed in the Bank of the Commonwealth of Kentucky,	130,740
Total expenditures,	$302,072 33

Amount due from the Commonwealth on the 10th day of October 1824, (in Commonwealth's money,)	36,467	54
Making	$338,539	87
From which deduct the above amount of receipts,	312,095	18
Leaves a balance due from the Commonwealth on the 10th day of October 1825, of	$26,444	69

There still remains in the Treasury $500 in specie, and $20 in Illinois money.

NOTE—No report has been made from the Bank of the Commonwealth of Kentucky, since the first of July last.

No. 2.

A Statement of Warrants drawn by the Auditor of public accounts on the Treasurer, during twelve months, ending on and including the 10th day of October 1825; showing the amount drawn for each source of expenditure, and the amount of Warrants paid and unpaid in the same period, to wit:

Sheriffs of 1821, for revenue overpaid and improperly paid,	$9	25
Ditto, 1823, ditto,	406	13
Drawbacks on vacant lands, the pay of military certificates, claims improperly paid on and money drawn for the redemption of headright claims,	132	87
Slaves executed,	1,225	
Public communications; the postage on letters sent and received by the Governor, Secretary of State, Auditor of public accounts, Adjutant and Quarter-Master-Generals; the postage on Commissioners' books forwarded by mail to the Auditor, are also charged under this head,	1,633	58
Purchasers of non-residents' lands, for redemptions,	4	17
Military expenditures; for the pay of Brigade Inspectors attending brigade musters, Judge Advocates and witnesses attending courts martial,	408	57
Money refunded, for moneys improperly paid, and for taxes twice paid, &c.	162	56
Electors,	261	32
Lunatic Asylum,	10,000	
Commissioners of tax, for taking in lists of taxable property,	8,233	50
For the support of lunatics and idiots,	8,113	95
Clerks' services, for clerks' ex officio services, for record books and presses, and for transcribing commissioners' books,	10,083	10
Jailers, for attending on and furnishing fuel, &c. for circuit courts, and for committing, releasing and dieting criminals,	7,507	74

Public printers, for advertising non-residents' lands,	69 32
Public roads, for pay of sundry commissioners,	204
Attorneys for the Commonwealth, their salaries,	6,152 53
Contingent expences, for books furnished the Secretary of State for the use of the Commonwealth, (as per acts of last Legislature,) for sundry repairs done to the public buildings, for repairs done to the Court of Appeals' room, and for the attendance of the officers on said court,	4,671 50
Salaries of the executive and judiciary officers,	33,282
Loans to the Penitentiary,	16,854 13
Executive offices, for stationary, fuel, &c.	2,355 93
Criminal prosecutions, for pay of venire men, witnesses and guards in part, including also the pay of sheriffs and constables in felonious cases,	17,298 47
Legislature, November session 1824, including the daily attendance and mileage of the members and the pay of witnesses,	22,691 59
Appropriations, November session 1824, including the compensation of the several officers of the Legislature, public printing, fuel and all other expences, the compensation to the speakers of each house excepted,	14,927 72
Surveyors, for copying entry books, &c.	364
Distributing acts and journals, November session, 1824,	432 50
Kentucky Institution for the tuition of the Deaf and Dumb, for the support of the indigent pupils,	1,455 62
Decisions of the Court of Appeals,	1,000
Sheriffs, comparing polls,	1,046 72
Clerks, for accounts overpaid,	10
Total amount of warrants issued,	$170,997 82
Warrants unpaid on the 10th of October, 1824, that issued since the 17th of March, 1810, (all others issued prior to the above date, are presumed to have been paid,)	476 58
Making,	$171,474 40
Warrants reported to have been paid by the Treasurer, as stated in Statement No. 1,	171,332 33
Warrants unpaid on the 10th of October, 1825,	$142 07

No. 3.

A Statement of balances due to government, on the 10th day of October, 1825, to wit:

Of the revenue collectable by Sheriffs for the year 1793,	$104 06

For the year	1794,	138 61
Ditto,	1796,	1,805 36
Ditto,	1798,	101 36
Ditto,	1799,	217 25
Ditto,	1800,	172 26
Ditto,	1802,	31 99
Ditto,	1803,	1,662 21
Ditto,	1806,	613 26
Ditto,	1807,	279 43
Ditto,	1809,	48 58
Ditto,	1811,	52 44
Ditto,	1815,	10 26
Ditto,	1817,	754 54
Ditto,	1819,	942 86
Ditto,	1820,	675 85
Ditto,	1821,	2,056 74
Ditto,	1822,	336 67
Ditto	1823,	1,653 38
Debts receivable,		7,627 84
Commissioners of navigation,		1 82
Tax on bank stock, (Independent Banks,)		1,105 06
Clerks, for taxes,		3,962 57
Loans to the Penitentiary,		62,297 67
Treasurer of the town of Waidsborough,		1,008 37
Total debts due government,		$87,660 44

BANK STOCK.

The amount of stock owned by the State in the Bank of Kentucky, on the 10th day of October, 1825, is	$417,690
Ditto subscribed in the Bank of the Commonwealth of Kentucky, up to the same date,	334,368 63
Total amount of stock owned by the State,	$752,058 63

No. 4.

A Statement of balances due from Government, on the 10th day of October, 1825, and for which the Treasury is bound on the same day, under the existing laws for the payment, to wit:

Sheriffs, for revenue of 1813,	8 32
Attorneys, for 1819,	86 96
Purchasers of non-residents' lands,	237 11
Warrants unpaid,	142 07
Town of Columbus,	1,533 10
Lunatic Asylum,	2,500
Commonwealth's Attorneys,	1,714 32
Salaries, (executive and judiciary officers,)	5,797 26
Total debts due from government,	$12,019 14

No. 5.

A Statement showing the probable amount of expenditures of the government, for the year ending on and including the 10th day of October 1826, to wit:

For the annual salaries of the officers of the executive departments, judiciary, attorney-general and attorneys for the Commonwealth,	$40,000
Ex officio services of clerks, copying commissioners' books, &c. &c.	11,500
Legislature, November session 1825, and all expences incident thereto, (supposing the Legislature to sit six weeks,)	25,000
Military expenditures,	500
Public communications,	1,500
Sheriffs, comparing polls,	1,000
Criminal prosecutions,	18,000
The execution of Slaves,	2,000
Support of idiots,	8,000
Printing and binding the Acts and Journals of November session, 1825,	3,000
Jailers attending circuit courts, &c.	8,000
Commissioners for taking in lists of taxable property,	8,500
Contingent expences, including the expences incurred during the stay of Lafayette in Kentucky,	12,000
Executive offices, for stationary, &c.	2,300
Money refunded for taxes twice paid, &c.	600
Purchasers of non-residents' lands,	230
Lunatic Asylum,	7,000
Surveyors, for copying entry books, &c.	400
Distributing Acts and Journals,	500
Kentucky Institution for the tuition of the Deaf and Dumb, for the support of the indigent pupils,	1,600
Decisions of the Court of Appeals,	2,000
Public printers, for advertising non-residents' lands,	100
Drawbacks on vacant lands,	300
Sheriffs, for amounts overpaid and improperly paid,	300
Public roads,	200
Loans to the Penitentiary,	3,000
Total amount expected to be expended,	$157,530

17742

No. 6.

A Statement of the amount of moneys which is expected will be paid into the Treasury in the year to end on the 10th day of October 1826, subject to the expences of government.

The gross amount of revenue collectable by sheriffs for the year 1824, and made payable on the first Monday in December next, is		$86,739 06
The loss on the collection of the revenue by sheriffs this year, including commissions for collecting, insolvents, compensation for killing wolves, and sundry other credits which are allowed the several sheriffs, it is presumed will be twenty per cent. amounting to		17,347 81
Leaving		$69,391 25
Of which said revenue was paid previous to the 10th of October, 1825, including sundry credits for wolves, &c.	$1,727 91	
The delinquents on the part of sheriffs this year, will be about	1,200	2,927 91
Which leaves a sum that may be expected with some certainty to be colleced and paid into the Treasury, during the ensuing year, of		$66,463 34
From clerks, for taxes on law process, deeds, seals, &c. including also the amount expected to be received from the Secretary of State and Register of the land-office, will be about		12,000
Miscellaneous receipts,		50
Non-residents' lands,		3,500
From the Bank of the Commonwealth of Kentucky,		66.000
From bank stock fund, to wit, sale of vacant lands,		9,000
From the Penitentiary,		4,000
From sale of lands east and west of Cumberland river, in the State of Tennessee,		3,000
Of the balances stated to be due government, as in statement No. 3, will be collected of the revenue due from sheriffs, about		3,000
Ditto, as due from clerks, will be collected, about		1,500
Treasurer of the town of Waidsborough,		1,008 37
Of the other balances, nothing can be expected, with any degree of certainty, to be collected.		
Total amount expected to be received,		$169,521 71
Balance due from government, as per statement No. 1, Commonwealth's money,		26,444 69
Ditto, Ditto, as per statement, No. 4,		12,019 14

Amount of statement No. 5,		157,530
Making		$195,993 83
From which deduct the amount of expected receipts, as stated above,		169,521 71
Leaving a balance due from government on the 10th day of October, 1826, in Commonwealth's money, of		$26,472 12

It is also expected, on the 10th day of October, 1826, there will be in the Treasury, $1,000 in specie.

No. 7.

A Statement concerning the Penitentiary.

LOANS.

Money has been drawn from the Treasury, by William Hardin, late Keeper, from the 1st of October 1824, until the 1st of February 1825, the time his office expired, including a final settlement, to the amount of		13,798 64
Salary and commission drawn by said Keeper, since 1st October 1824,		980 22
Ditto ditto, by James I. Miles, late Agent,		240 41
Joel Scott, present Keeper, has drawn from the Treasury, in part of appropriation made,		2,274 36
Money improperly drawn, and charged to Hardin, as late Keeper,		200 50
Loans due on the 1st of October 1824,		55,653 29
Making		$73,147 92

CREDITS.

Paid into the Treasury, by James I. Miles, late Agent, from 1st October 1824, to the 1st of January 1825, for sales and collections made,	1,283 21	
Money refunded by William Hardin, late Keeper,	200 50	
Salary and commission credited former Agent and Keeper,	1,091 18	
Amount paid into the Treasury by William Holeman, now Agent, on account of sales and collections made,	2,275 36	
Appropriation made to Scott,	6,000 00	—10,850 25
Leaving a balance due from the Penitentiary, on the 10th day of October 1825, of		$62,297 67

THE AGENT.—DEBITS.

William Holeman, the present Agent, received from the late Keeper and Agent of the Penitentiary, raw materials, debts

and manufactured articles, during the present year, to the amount of 55,604 11

CREDITS.

Cash paid into the Treasury during said time, by William Holeman, Agent,	2,275 36	
Raw materials delivered over to Joel Scott, Keeper of the Penitentiary, as cash to the amount of	718 35	
Loss in sale of articles sold at auction,	8,182 48	
Overcharge in articles received by Agent,	76 50	
Sundry other credits for commissions paid, &c.	1,208 43	12,461 12

Balance standing on the books against the Agent, on the 10th of October 1825, $43,142 99

From statements made by the Agent, not more than $5000 of the above amount can be collected; the balance being articles charged to government, and debts which are entirely insolvent. He states, that the loss in the sale of articles at auction was caused by the bad condition he found them in, when they were received by him. A great many articles were almost entirely destroyed, others very much injured, and a great number valued too high, particularly those in the hands of the sub-agents.

TOOLS, &c.

The tools, bedding, &c. were delivered to Joel Scott, now Keeper, and were valued at $1,255 and 78 cents; which amount said Scott is charged with.

DEBTS DUE.

A balance is standing on the books, as due to John B. Wooldridge, late Agent, of	40 75
Ditto ditto, due James I. Miles, late Agent,	182 69
Ditto ditto, due Joel Scott, Keeper, for balance of appropriation,	3,006 79
Total debts due,	$3,230 23

No. 8.

(By special Resolution of the Senate.)

A STATEMENT

Exhibiting the amount of Expenditures from the 11th of October, 1824, to the 10th of October 1825, inclusive, and the amount of revenue due and receivable in the year 1825 in each county, the revenue consisting of the several items chargeable in the commissioners' books and collectable by the Sheriffs, and the tax on law process, deeds, seals, &c. collectable by the Clerks. The expenditures consist of the following items, viz: Commissioners of tax, for taking in lists of taxable property; Clerks services for

record books, ex officio services, &c.; criminal prosecutions, pay of Sheriffs, Veniremen, &c.; Jailers, for attending circuit courts, dieting criminals, &c.; for the support of idiots and the balances due for the support of lunatics; Sheriffs comparing polls for Congressmen, &c. and other contingencies. It also includes the several credits given each Sheriff for insolvent and delinquent lists, commissions for collecting the revenue, and for wolves killed, &c.

COUNTIES.	Amount of Revenue.	Amount of Expenditures.	Net revenue after paying all expences.	Am't of expences exceeding the revenue.
	D. C.	D. C.	D. C.	D. C.
Adair,	1,117 43	882 14	235 29	
Allen,	591 79	434 14	157 65	
Bourbon,	4,207 86	1,158 11	3,049 75	
Bath,	1,193 77	661 90	531 87	
Barren,	1,744 53	782 29	962 24	
Bullitt,	732 14	552 95	179 19	
Breckinridge,	933 11	844 02	89 09	
Boone,	1,045 81	550 10	495 71	
Bracken,	567 70	525 02	42 68	
Butler,	296 68	348 70		52 02
Clay,	338 20	412 55		74 35
Campbell,	848 69	538 25	310 44	
Caldwell,	1,112 57	1,347 45		234 88
Christian,	2,675 04	1,676 37	998 67	
Cumberland,	951 54	638 81	312 73	
Casey,	357 82	367 56		9 74
Calloway,	140 74	342 74		202 00
Clarke,	2,329 70	850 02	1,479 68	
Daveiss,	441 83	478 12		36 29
Estill,	360 44	451 05		90 61
Fayette,	6,959 10	2,483 72	4,475 38	
Floyd,	251 62	366 10		114 48
Fleming,	1,605 10	893 83	711 27	
Franklin,	2,455 76	823 51	1,632 25	
Grayson,	370 53	260 53	110 00	
Greenup,	483 39	580 39		97 00
Garrard,	1,715 20	1,301 31	413 89	
Green,	1,917 71	1,386 75	530 96	
Gallatin,	621 08	568 97	52 11	
Grant,	188 53	327 44		138 91
Graves,	47 27	230 72		183 45

COUNTIES.	Amount of Revenue.		Amount of Expenditures.		Net revenue, after paying all expences.		Am't of expences exceeding the revenue.	
	D.	C.	D.	C.	D.	C.	D.	C.
Hardin,	1,215	82	978	71	237	11		
Harrison,	1,912	72	4,142	86			2,230	14
Henry,	1,712	96	1,724	11			11	15
Henderson,	662	17	2,273	69			1,611	52
Hopkins,	822	80	897	51			74	71
Hart,	609	56	618	01			8	45
Harlan,	164	89	172	74			7	85
Hickman,	93	58	834	56			740	98
Jefferson,	3,927	94	3,184	98	742	96		
Jessamine,	1,523	01	678	90	844	11		
Knox,	381	49	445	56			64	07
Lincoln,	1,996	11	889	82	1,106	29		
Logan,	2,514	35	1,387	51	1,126	84		
Livingston,	783	35	691	13	92	22		
Lewis,	373	17	282	01	91	16		
Lawrence,	136	99	309	18			172	19
Madison,	2,866	52	1,880	03	986	49		
Mason,	2,820	48	2,241	91	578	57		
Mercer,	3,065	68	1,485	56	1,580	12		
Muhlenberg,	610	68	600	44	10	24		
Montgomery,	1,734	35	1,480	17	254	18		
Monroe,	542	66	748	58			205	92
Morgan,	91	04	328	89			237	85
Meade,	318	43	91	91	226	52		
M'Cracken,	30	70	233	50			202	80
Nelson,	2,381	35	1,172	09	1,209	26		
Nicholas,	977	47	543	21	434	26		
Ohio,	507	88	715	85			207	97
Owen,	571	15	206	07	365	08		
Oldham,	1,133	96	639	71	494	25		
Pulaski,	754	02	502	37	251	65		
Pendleton,	383	68	554	91			171	23
Perry,	135	12	754	00			618	88
Pike,	124	21	462	70			338	49
Rockcastle,	318	94	776	05			457	11
Scott,	2,649	55	1,394	92	1,254	63		
Shelby,	3,386	32	1,643	10	1,743	22		
Simpson,	849	18	580	67	268	51		
Spencer,	932	67	209	89	722	78		
Todd,	1,556	01	548	15	1,007	86		

COUNTIES.	Amount of Revenue.	Amount of Expenditures.	Net revenue after paying all expences.	Am't of expences exceeding the revenue.
	D. C.	D. C.	D. C.	D. C.
Trigg,	741 72	289 94	451 78	
Union,	773 92	376 87	397 05	
Woodford,	3,074 27	499 53	2,574 74	
Warren,	2,054 59	1,413 14	641 45	
Wayne,	881 68	663 10	218 58	
Washington,	2,624 79	1,006 39	1,618 40	
Whitley,	192 07	621 52		429 45
Total Amount,	96,518 68	67,242 01	38,301 16	9,024 49

Total Revenue as above, - - - - $96,518 68
Total Expenditures as above, - - - 67,242 01

Leaving a net Revenue of - - $29,276 67

All of which is respectfully submitted.

PORTER CLAY, *Aud. P. A.*

Ordered, That the said report be referred to the committee of ways and means, and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

Mr. M'Connell moved for leave to bring in a bill to limit the time for which the members of the Legislature shall draw pay for their services; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to—Yeas 37, Nays 52.

The yeas and nays being required thereon, by Messrs. M'Connell and Blackburn, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Brown, Bruton, Carter, Clay, Coleman, Cowan, Cox, Daniel, Evans, Fulton, Gibson, Green, Hanson, Lee, Logan, Marshall, Maupin, M'Connell, Miller, Mullens, Napier, Owsley, Payne, Slaughter, Spalding, Sterrett, Tarlton, Robert Taylor, Turner, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, Wingate and Yantis.

NAYS—Messrs. John J. Allin, Bainbridge, Barbee, Blackburn, Breckinridge, Bruce, Chenowith, Coombs, Cosby, Cunningham, Davis, Duke, Dunlap, Dyer, Elliston, Farmer, Ford, Gaines, Gordon, Grundy, Hall, Hansford, Harvey, Haskin, Hutchinson, James, Martin, Mayes, M'Clanahan, M'Millan, Morris, New, Owings, Perrin, Porter, Prince, Reed, Samuel, Skyles, Stephens, Street, Richard Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Waddell, Wade, Walker, S. White and Woodson.

The Speaker laid before the house a letter from Joel Scott, Keeper of the Penitentiary, exhibiting a view of the situation of that institution, and the accounts thereof, since his appointment; which was received and read in the following words:

To the Honorable, the Speaker of the House of Representatives of the Commonwealth of Kentucky.

Sir—Permit me, through you, to lay before the House of Representatives, the following communication and report, to wit:

Agreeably to an act passed on the 10th day of January last, appointing me Keeper of the Kentucky Penitentiary, and authorising me to take charge of that institution, I entered on the duty of my station. At the time I undertook the management of the institution, I found belonging to it, eighty four convicts, in a most destitute and deplorable condition, filthy and diseased, and all of them so bare of clothing as to be wholly unfit for any mechanical occupation. It was my impression, that the convicts were to have been turned over to me, at least comfortably clothed, and I presume they would have been so; but the former Keeper, General Hardin, informed me that he had not been furnished with the means by the public, and consequently, no imputation of neglect could attach itself to him.

After clothing the convicts, (and I was compelled to clothe them before they could be of any kind of utility to me or the state,) I proceeded to make such improvements as I conceived to be of a valuable character. The railed walk on the wall I caused immediately to be pulled down, as it afforded so many facilities for escape. I next proceeded to clear up the yard of the Penitentiary which was much incumbered with the refuse of the raw materials, and with filth of all kinds. I have also finished the building and made such other alterations as seemed best calculated to enable me to prosecute my views, by making such machinery as I thought most advisable.

Accompanying this communication, I submit to your Honorable body, a sketch of the different kinds of machinery erected, and of other improvements made by me, and to complete which, not less than one third of the hands were busily employed.

It gives me much satisfaction to be enabled to say, that the convicts have enjoyed throughout this season, good health in general with the exception of a few, who were much reduced by the epidemic last fall. There has been but one death, which happened last April, and was occasioned by a pulmonary affection. Twenty-three persons have been discharged, and nineteen received under confinement, since I have had the management of the institution.

Of the money which the law authorises me to receive of the State on loan, I have to acknowledge the receipt of three thousand and ninety-six dollars and seventy one cents, including the amount received in raw materials.

It gives me much pleasure to be enabled to assure your Honorable body, that I am confirmed in the opinion which I have long entertained, that the institution under prudent management may

be rendered a source of profit, both to the superintendent and to the country; and should I be blessed with my health, in the absence of untoward accidents, I trust I shall be able to give a good account of myself and of the establishment, at your next annual meeting. It would be gratifying to me to be visited early in the session by a committee, and also by the members individually.

An accompanying statement exhibits an account of the expenditures, manufactured articles, raw materials, improvements made, &c. &c. &c. all of which is respectfully submitted by your

Obedient servant,

JOEL SCOTT.

NOVEMBER 8TH, 1825.

KENTUCKY PENITENTIARY, DR.

For this amount of expenditure for guard hire, assistant keeper, clerk, victualling the convicts, clothing convicts, raw materials, fuel, &c. &c. &c. from the 1st day of February, 1825, to the 1st day of November, 1825, inclusive,	$14,275 68

CONTRA, CR.

By articles manufactured in the Kentucky Penitentiary, from the 1st day of February 1825, to the 1st day of November 1825, inclusive, say	13,575 83
By this amount of raw materials on hand,	2,000 00
Of the above amount of manufactured articles, there remains on hand unsold, about this amount,	$2,500 00

I have had built a picker, and a double carding and a single wool carding machine, a forty spindle billy, three sixty spindle jinneys, four broad looms to weave broadcloth in, and six narrow looms, all rigged off complete for weaving; a house that is intended for a steam engine to work in, in which I have a horse wheel at work that drives my wool-carding; which wheel will shortly be removed, to give place to the steam engine, which is nearly ready to go up. I have got a fulling mill nearly ready to work; I have started the wool hatting bussiness; I have built a smith's shop in the back yard; the old one was so close to the building, as to endanger the whole building. I still continue the chair making, shoe making, slaie making, coopering, wagon making, &c. and have made various other improvements, all of which, will at all times be cheerfully shown to you, either in committee or individually, by

Your obedient servant,

JOEL SCOTT.

Leave was given to bring in the following bills:

On the motion of Mr. Coleman—1. A bill to authorise the insertion of certain advertisements in the Cynthiana Advertiser, printed in Cynthiana.

On the motion of Mr. Cox—2. A bill to establish an Election Precinct in Edmondson county.

On the motion of Mr. Wingate—3. A bill to amend the act entitled an act to appropriate fines and forfeitures, approved January 6, 1825.

And on the motion of Mr. Maupin—4. A bill to alter the mode of taking in lists of taxable property.

Messrs. Coleman, Perrin and Mullens were appointed a committee to prepare and bring in the first; Messrs. Cox, Underwood and Coombs, the second; Messrs. Wingate, Bruce and Wade, the third; and Messrs. Maupin, Underwood, Wilcoxen and Breck, the fourth.

Mr. Crittenden from the joint committee appointed to make arrangements for the interment of the late Col. Solomon P. Sharp, made a report, which was received, read and concurred in.

And then the house adjourned.

WEDNESDAY, NOVEMBER 9, 1825.

1. Mr. Underwood presented the petition of Absalom Ford, of Warren County, praying compensation for the safe keeping and maintenance of Wesley G. Martin, a lunatic of said county, previous to his removal to the Lunatic Asylum.

2. Mr. Harvey presented the petition of Samuel Woodson, Clerk of the Hopkins Circuit Court, representing that in consequence of unavoidable accident, he was, at the fall term of said court, prevented from executing his official bond, and praying that a law may pass to allow him further time to execute said bond.

3. Also, the petition of Caleb Hall, praying compensation for the safe keeping and maintenance of John Shive, a lunatic, previous to his removal to the Lunatic Asylum at Lexington.

4. Mr. Wilson presented the petition of Polly Linticum, of Logan county, praying a divorce from her husband, Rice B. Linticum.

5. Mr. Spalding presented the petition of James Townsend, guardian to Elizabeth Hayden, praying that a law may pass to authorise him to invest the money of his ward in a tract of land.

6. Mr. Lee presented the petition of sundry citizens of Fleming county, praying that a law may pass to alter the mode of electing Trustees to the Fleming Academy.

7. Mr. Street presented the petition of sundry citizens of Caldwell county, praying that parts of said county may be added to the county of Trigg.

8. Mr. M'Clanahan presented the petition of the administrator, widow and adult heirs of George Snap, deceased, praying that a law may pass to authorise the sale of a part of the real estate of

the decedent, for the purpose of enabling them to discharge the debts against his estate.

9. Mr. Morris presented the petition of Obadiah Smith and Eliza N. Smith, his wife, late Eliza N. Eachus, widow of John Eachus, deceased, praying that a law may pass to authorise him to sell a portion of the real estate of John Eachus, deceased, for the purpose of discharging the debts due by the decedent.

10. Mr. Ward presented the petition of David Kerr, guardian of David C. and Harriet Webb, infant heirs of William S. Webb, deceased, praying that a law may pass to authorise him to sell a piece of land near Georgetown, belonging to his said wards.

11. Also, the petition of James Cavender, praying compensation for the safe keeping and maintenance of Watts Cavender, a lunatic, since the first day of March, 1824.

12. Mr. Chenowith presented the petition of sundry citizens of Hardin county, praying that the place of holding elections in the Eastern precinct in said county, may be changed.

13. Mr. Richard Taylor presented the petition of Jane St. Clair Robinson, praying a divorce from her husband, Samuel Robinson.

14. Mr. Bainbridge presented the petition of Celia Dorse, praying a divorce from her husband, Azariah Dorse.

15. Mr. Hall presented the petition of the widow and heirs of Richard Lewis, deceased, of Barren county, praying that a law may pass to authorise the sale of a tract of land in said county, belonging to the estate of the decedent, with a view to invest the proceeds of the sale in another tract of land, better adapted to their situation and convenience.

16. Mr. Turner presented the petition of Richard Apperson, Jr. praying compensation for his services while acting as Attorney for the Commonwealth under the appointment of one of the Circuit Judges of this State, during the vacancy of that office by the resignation of Samuel Hanson, Esq.

17. Mr. Gordon presented the petition of sundry citizens of Livingston county, praying for the erection and establishment, under suitable regulations, of a public Hospital in the town of Smithland, at the mouth of Cumberland River.

18. Mr. Breckinridge presented the petition of Ann Bowman, executrix, and John Bowman, executor, of Abraham Bowman, deceased, praying the passage of a law to authorise the sale of the interest of the decedent, in a tract of land lying in Henry county, and the investment of the proceeds thereof, in other lands more advantageously situated.

19. Mr. Yantis presented the petition of the widow and heirs of Michael Wallace, deceased, praying that a law may pass to authorise the sale of two small tracts of land belonging to the estate

of the decedent, and the investment of the proceeds thereof in other lands in some one of the adjacent states or territories.

20. Mr. M'Millan presented the petition of Henry Bushong, of Monroe county, praying compensation for the injury and damage sustained by him in consequence of opening through his land, the State Road, leading from Danville in this State in the direction of Murfreesborough, Tennessee, and which compensation the county court of Monroe has refused to make to him.

21. Mr. Underwood presented the petition of Thomas A. Young and Sarah H. Young, his wife, late Sarah H. Johnson, who is under the age of twenty-one years, praying that a law may pass to authorise them to sell and convey a tract of land, inherited by the said Sarah, from her father, David Johnson, in the same manner and to have the same effect, as if the said Sarah was of lawful age.

22. Mr. Wilson presented the petition of the Trustees of Russellville, praying that a law may pass to authorize them to sell and convey one of the streets in said town.

23. Mr. Underwood presented the petition of sundry citizens of Edmondson county, praying that a law may pass to authorize James Lindsey to build a dam across Green river, for the purpose of working a water grist mill, at the mouth of Nolin.

24. Mr. Thomas presented the petition of Patsey Birdsong, praying a divorce from her husband, William Birdsong.

Which petitions were severally received, read and referred; the 1st, 3d, 11th and 16th, to the committee of claims; the 2d, 5th, 9th, 10th and 22d, to the committee for courts of justice; the 4th, 13th, 14th and 24th, to the committee of religion; the 6th to a select committee of Messrs. Lee, Bruce, M'Clanahan, M'Connell and Marshall; the 7th, 12th, 17th, 20th and 23d, to the committee of propositions and grievances; the 8th to a select committee of Messrs. M'Clanahan, Fulton, Marshall and Walker; the 15th to a select committee of Messrs. Hall, Maupin and Turner; the 18th to a select committee of Messrs. Breckinridge, Payne and True; and the 19th and 21st, to a select committee of Messrs. Yantis, Underwood, Green and Walker.

Mr. Elijah F. Nuttall, a member returned to serve in this house from the county of Henry, appeared, produced a certificate of his election, and of his having taken the oaths prescribed by the constitution of the United States, and the constitution and laws of this State, and took his seat.

Mr. Yantis moved the following resolutions:

Resolved by the House of Representatives, That the committee of religion be instructed to reject all petitions to them referred, for divorces, where relief is ample at law.

Resolved, That said committee be instructed to examine the general law in relation to divorces, and report whether any amend-

ment to said law be necessary; and that they have leave to report by bill or otherwise.

Which being twice read, were adopted.

Mr. Lee moved for leave to bring in a bill to take the sense of the people of this commonwealth, as to the expediency and propriety of calling a convention; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

The yeas and nays being required thereon, by Messrs. Lee and M'Connell, were as follows, viz.

YEAS—Messrs. James Allen, John J. Allin, Barbee, Bruce, Bruton, Clay, Chenowith, Coleman, Coombs, Davis, Duke, Elliston, Fletcher, Fulton, Gaines, Hall, Haskin, James, Lee, Marshall, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Nuttall, Owsley, Perrin, Porter, Prince, Samuel, Skyles, Spalding, Stephens, Sterrett, Thomas, Thomasson, Underwood, Waddell, Wade, E. Watkins, Wilcoxen and S. White—44.

NAYS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Carter, Cosby, Cowan, Cox, Crittenden, Cunningham, Daniel, Dunlap, Dyer, Evans, Farmer, Ford, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, Logan, Mayes, M'Connell, Morris, Napier, New, Owings, Payne, Reed, Slaughter, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Walker, Ward, B. E. Watkins, Wilson, Wingate, A. White, Woodson and Yantis—52.

Mr. Turner moved for leave to bring in a bill to reduce the expences of the Bank of the Commonwealth of Kentucky.

Ordered, That the title presented on the motion aforesaid, be referred to the committee of ways and means.

Mr. M'Connell moved the following resolution:

Resolved, That so much of the Governor's message as relates to internal improvements, be referred to a select committee.

Which being twice read was concurred in; and Messrs. M'Connell, Woodson, Logan, Brown, Owsley, Duke, Nuttall, Fletcher, Gordon, Waddell and Street, appointed a committee pursuant thereto.

Mr. Underwood moved the following resolutions:

Resolved, That so much of the Governor's message as relates to the revision and curtailment of salaries, so much as relates to the increase of taxes, and so much as relates to the visit of General Lafayette, and the expences incurred thereby, be referred to the committee of ways and means.

Resolved, That so much of the Governor's message as relates to the execution laws of this Commonwealth, and so much as relates to the Supreme Court of the United States and the Federal Judges in this State, be referred to the committee of courts of justice.

Resolved, That so much of the Governor's message as relates to education and the Transylvania University, be referred to a select committee.

Resolved, That so much of the Governor's message as relates to the militia, be referred to a select committee; and that the several select committees have leave to report by bill or otherwise.

Which being twice read, were adopted; whereupon Messrs. Underwood, Hanson, Mayes, Breck, Green, Breckinridge, Morris, Gaines, Dyer, Ward and Reed, were appointed a committee pursuant to the third; and Messrs. Yantis, Coombs, Dunlap, Hutchison, Gibson, Samuel, Wilcoxen, Maupin, Martin, M'Millan and Mullens, pursuant to the fourth resolution.

Leave was given to bring in the following bills:

On the motion of Mr. Wingate—1. A bill to amend the act entitled "an act to provide for running and marking the county line between the counties of Owen and Grant," approved December 6th, 1824.

On the motion of Mr. Green—2. A bill to allow additional justices of the peace to sundry counties.

On the motion of Mr. Davis—3. A bill to establish an election precinct in the county of Montgomery.

On the motion of Mr. Crittenden—4. A bill to authorize the Constitutional Advocate, a newspaper printed in the town of Frankfort, to insert certain advertisements.

On the motion of Mr. Wade—5. A bill to compel the owners of warehouses, to keep therein scales, furnished with lawful standard weights, made of cast iron.

On the motion of Mr. Bruce—6. A bill to authorize the Trustees of the Lewis Academy, to sell the lands granted by this Commonwealth, for the benefit of said academy.

On the motion of Mr. Underwood—7. A bill to enlarge the constable's district including the town of Bowlinggreen.

On the motion of Mr. Dyer—8. A bill to provide for the safe keeping of Francis Erwin.

On the motion of Mr. Wade—9. A bill to compel free persons of colour to work on roads, public highways, &c.

On the motion of Mr. Mayes—10. A bill to give remedy against the securities of executors and administrators, in certain cases.

On the motion of Mr. Samuel—11. A bill for the benefit of mechanics.

On the motion of Mr. M'Millan—12. A bill to establish two election precincts in the county of Monroe.

On the motion of Mr. Nuttall—13. A bill to compel physicians to licentiate.

And on the motion of Mr. Underwood—14. A bill to alter the times of holding the Edmondson circuit courts, and to provide for running and marking the line of Edmondson county.

Messrs. Wingate, Elliston and Mullens, were appointed a committee to prepare and bring in the first; Messrs. Green, Cunningham, Yantis, Ward and Marshall, the second; Messrs. Davis, Duke and M'Connell, the third; Messrs. Crittenden, Blackburn, Ward and M'Clanahan, the fourth; Messrs. Wade, M'Clanahan and Bruce, the fifth; Messrs. Bruce, M'Connell, Marshall and Robert

Taylor, the sixth; Messrs. Underwood, Skyles and Owsley, the seventh; Messrs. Dyer, Sterrett and Watkins, the eighth; Messrs. Wade, Haskin and Allin, (of Mercer,) the ninth; Messrs. Mayes, Underwood, Crittenden and Bruce, the tenth; Messrs. Samuel, Spalding, Gaines, M'Clanahan and Brown, the eleventh; Messrs. M'Millan, Owsley and Maupin, the twelfth; Messrs. Nuttall, Duke and Blackburn, the thirteenth; and Messrs. Underwood, Wilson and Skyles, the fourteenth.

The following bills were reported from committees appointed to prepare and bring in the same, viz. By Mr. Coleman, 1, a bill to authorise the insertion of advertisements in the Cynthiana Advertiser and in the Danville Advertiser; and by Mr. Underwood, 2, a bill to enlarge to the constable's district including the town of Bowlinggreen.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the first was committed to a select committee of Messrs. Crittenden, Ward, Walker, M'Clanahan, Prince and Breckinridge; and the second was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Underwood carry the said bill to the Senate, and request their concurrence.

On motion,

Ordered, That a writ of election issue to the county of Franklin, for the purpose of electing one representative, to fill the vacancy occasioned by the death of Solomon P. Sharp, Esq.; and that the said election be held on Monday the 14th instant.

And then the house adjourned.

THURSDAY, NOVEMBER 10, 1825.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled resolutions occasioned by the death of Col. Solomon P. Sharp, and a resolution authorising the Governor to offer a reward for the apprehension and conviction of the murderer of Col. Solomon P. Sharp; and had found the same truly enrolled.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

1. Mr. Walker presented the petition of Mary Dogan, praying a divorce from her husband, John Dogan.

2. Mr. Harvey presented the petition of Ann Turley, widow and administratrix of the estate of William Turley, deceased, praying that a law may pass authorising the sale of a small tract of land of which the said William died seized, lying in the county of Hopkins.

3. Mr. Wilcoxen presented the petition of James Robinson, praying compensation for keeping Joshua Stansberry, a lunatic.

4. Mr. Fletcher presented the petition of James M'Ilhenny and James Edwards, administrators of the estate of Samuel Chew, deceased, praying that a law may pass authorising the sale of the real estate of the deceased, for the purpose of paying his debts.

5. Mr. Coombs presented the petition of the Trustees of the Hart Seminary, praying that a law may pass authorising them to list the lands belonging to said Seminary for taxation, to pay up the arrearages of taxes, and to exempt the same from forfeiture for non-improvement; and that the law appropriating the fines in said county, may be changed.

6. Mr. James presented the petition of George Owens, praying that a law may pass granting him a quarter section of land, west of the Tennessee river.

7. Mr. Morris presented the petition of sundry citizens of the town of Henderson, praying that the laws regulating said town may be amended.

8. Mr. Miller presented the petition of John Dick, praying a divorce from his wife, Elizabeth Dick.

9. Mr. Wilson presented the petition of Nancy Simpson, praying a divorce from her husband, David Simpson.

10. Mr. Sterrett presented the petition of the widow and the heirs who are of full age, of Thomas Blinco, sen. deceased, praying that a law may pass to authorise a sale of a tract of land in Breckinridge county, devised to them and the infant children of the said Thomas Blinco.

11. Mr. Green presented the petition of the widow and infant heirs of Walter Harlow, (by their guardian,) praying that a law may pass to authorise the sale of a negro woman slave, belonging to said infants.

12. Mr. M'Connell presented the petition of sundry citizens of Lawrence county, praying that a law may pass establishing an election precinct in said county.

13. Mr. Davis presented the petition of Jesse Rader, praying that a licence to sell goods be granted to him, without paying the tax, and a loan of fifty dollars for twelve months, without interest.

Which petitions were severally received, read and referred; the 1st, 8th and 9th, to the committee of religion; the 2d and 4th to a select committee of Messrs. Yantis, Underwood, Green, Walk-

er, Harvey and Fletcher; the 3d to the committee of claims; the 5th, 6th and 13th to the committee of propositions and grievances; the 7th and 11th to the committee for courts of justice; the 10th to a select committee of Messrs. Sterrett, Hardin and Cox; and the 12th to a select committee of Messrs. M'Connell, Bruce & Davis.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under consideration the petition of the citizens of Oldham county, praying that a law may pass to authorise them, by a majority of the votes to be given by the voters in their county, to locate their seat of justice, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *be rejected*.

The committee of propositions and grievances have, according to order, had under consideration the petition of the citizens of Oldham county, praying that a law may pass, directing the removal of their seat of justice from Lynchburg to Westport, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *is reasonable*.

Which being twice read, and the first resolution concurred in, it was then moved and seconded to amend the second resolution by striking out the words "*is reasonable*," and inserting the words "*be rejected*;" and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Samuel and Thomasson were as follows, viz.

YEAS—Messrs. James Allen, John J. Allin, Barbee, Bruce, Carter, Cosby, Cowan, Crittenden, Daniel, Elliston, Evans, Fletcher, Fulton, Grundy, Hansford, Hanson, Hardin, Harvey, Haskin, James, Mayes, M'Clanahan, Miller, M'Millan, Mullens, Napier, New, Owsley, Porter, Spalding, Stephens, Street, Tarlton, True, Waddell, Wade, Ward, Wilcoxen, Wilson and Wingate—40.

NAYS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruton, Clay, Chenowith, Coombs, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Farmer, Ford, Gaines, Gordon, Green, Hall, Hutchison, Lee, Logan, Marshall, Martin, Maupin, M'Connell, Morris, Nuttall, Owings, Payne, Perrin, Prince, Reed, Samuel, Skyles, Slaughter, Sterrett, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, Turner, Underwood, B. E. Watkins, E. Watkins, A. White, S. White, Woodson and Yantis—54.

The said resolution was then concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to said second resolution.

A message was received from the Senate, announcing the passage of a bill by that house, of the following title: "An act to authorize the insertion of certain advertisements in the paper published in Lexington, entitled the Kentucky Whig;" and the passage of a bill which originated in this house, entitled "an act to enlarge the constable's district including the town of Bowlinggreen."

Mr. Crittenden, from the committee for courts of justice, to whom was referred the petition of J. Townsend, made the following report:

Resolved, That the said petition *be rejected.*

Which being twice read, was concurred in.

The Speaker laid before the house a letter from the Treasurer of this State, enclosing his annual report of the situation of that office, and of the moneys received and paid out for the last year, ending on and including the 10th day of October, 1825; which letter and report, are in the following words:

TREASURER'S OFFICE, KY. NOV. 9, 1825.

Sir:

You will please lay before the honorable house over which you preside, the enclosed statement, which gives a concise view of the situation of the Treasury department, from the 11th day of October 1824, to the 10th day of October 1825, inclusive.

I have the honor to be, very respectfully,
Your obedient humble servant,
SAMUEL SOUTH, TR.

HON. GEORGE ROBERTSON,
Speaker of the House of Representatives.

A STATEMENT

Of Moneys received and paid at the Treasury, in the year 1825, commencing on the 11th day of October 1824, and ending on the 10th day of October 1825, inclusive.

RECEIPTS.

Amount received on head-right lands,	2,425 72		
Ditto, vacant lands,	8,358 67		
Ditto, Tellico lands,	120 35	—10,904	74
Ditto, Tennessee lands, east of Cumberland river,	407 50		
Ditto, west of Cumberland river,	5,171 80	—5,579	30
Ditto, south-west of Tennessee river,		11,400	
Ditto, Penitentiary,		3,689	99
Ditto, Sheriffs,		72,176	54
Ditto, Clerks,		10,686	39
Ditto, non-residents' lands,		9,287	60
Dividend Bank of the Commonwealth of Kentucky, up to 30th of November 1824,	21,108 64		
Ditto, 31st of July 1825,	45,040 07	—66,148	71
Distribution of stock of Bank of Kentucky, up to 31st of January 1825,	59,670 00		
Ditto, 31st of July 1825,	59,670 00		
		119,340	00
Miscellaneous receipts,		1,704	96
Register of the land-office,		1,126	60
Secretary of State,		50	35
Total amount received,		$312,095	18

This Statement exhibits the amount of Money paid for Warrants drawn on the Treasury from the 11th day of October 1824, to the 10th day of October 1825, inclusive.

Amount subscribed and paid into the Commonwealth's Bank, as stock, to wit: Distribution of stock from Bank of Kentucky, up to 31st Jan. 1825,	$59,670		
Ditto, 31st July 1825,	59,670		
Land south-west of Tennessee river,	11,400	130,740	00
Drawback on vacant lands,		132	87
Penitentiary, for loans, &c.		16,854	63
Salaries of the Executive and Judiciary departments:			
For the Executive department,	6,551 82		
Judiciary department,	32,602 21	39,154	03
Legislature, November session 1824,		22,332	80
Appropriations, same time,		11,224	79
Public Printing, same time,		3,943	13
Support of Lunatics,		8,459	75
Criminal prosecutions,		17,425	17
Commissioners of tax,		3,158	50
Jailers, for attending on circuit and county courts,		7,826	93
Clerks of circuit and county courts,		10,093	20
Sheriffs, for comparing polls,		1,671	44
Executive offices,		2,415	62
Contingent expences,		4,720	13
Public roads,		505	86
Military expences,		437	91
Slaves executed,		1,225	
Lunatic Asylum,		10,000	
Surveyors, for copying entries, &c.		364	
Deaf and Dumb Asylum,		1,455	62
Money refunded,		162	56
Purchasers of non-residents lands,		4	17
Reporter Court of Appeals,		1,000	
Public communications,		1,331	72
Distributing Acts of Assembly,		432	30
Total amount paid,		$302,072	33
Balance due from government on the 10th of October 1824, in Commonwealth's money,		36,467	54
Total,		$338,539	87
From which take the amount received, as above,		312,095	18
Balance due from government, in Commonwealth's money, on the 10th of October 1825,		$26,444	69

For amount of money paid upon the order of the Governor, for the reception and entertainment of General Lafayette,	8,086	
For amount of money lost on the day of the conflagration of the State-House, as reported by committee,	1,479	35
Making (which has not been credited the Treasurer's account by the Auditor)	$9,565	35
Balance due 10th of October 1825, as per statement above,	26,444	69
Making the true balance from government, in Commonwealth's money, on the 10th of Oct. 1825,	$36,010	04

There still remains on hand, in specie, in the Bank of Kentucky, $500; and in Illinois money, $20.

The foregoing statement is respectfully submitted to the House of Representatives.

SAMUEL SOUTH, Tr.

Ordered, That the said report be referred to the committee of ways and means; and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

The Speaker laid before the house, a letter from the President of the Bank of the Commonwealth, enclosing his annual report of the situation of that institution; which letter and report are as follows:

BANK OF THE COMMONWEALTH, Nov. 10th, 1825.

Sir:

You will receive herewith, the annual report of the proceedings and situation of this Bank, up to the 10th day of October 1825, which you will please lay before that branch of the Legislature over which you preside.

Respectfully, your obedient servant,

D. WHITE, *President.*

GEORGE ROBERTSON, ESQ.
Speaker of the House of Representatives.

BANK OF THE COMMONWEALTH, Nov. 10th, 1825.

To the Members of the Senate and of the House of Representatives.

In compliance with the provisions of the 13th section of the act to establish the Bank of the Commonwealth, I have the honor to transmit herewith, to the General Assembly, a statement made out by the Cashier of the principal Bank, exhibiting a concise view of the situation of the institution, up to the 10th day of October 1825; also, detailed reports to that date, from the principal

Bank and each of its branches, containing the names of all its debtors, the amount due from each, and the manner in which the same is secured, together with the amount of notes under discount, notes in suit, and such as are considered doubtful; all which, when taken and considered together, presents a full view of the whole institution. The tables and reports submitted for your inspection, have been considerably enlarged, and are accompanied with such explanatory notes, as render it unnecessary to comment upon the various items they contain. So far as it becomes essential to a fair development of the resources of the institution, and to a correct expose of its real condition, the law has made it the duty of the President to report specially to the Legislature, at each session.

Since the 10th day of October 1824, the Treasurer has paid into Bank, for the capital stock thereof, the sum of $130,740, for which he has obtained receipts from the Cashier. That sum increases the amount of stock actually paid, to $334,368 63.

The net profits of the institution, after deducting from the gross sum, special appropriations made by the Legislature, and all expences for the year ending on the 10th day of October 1825, amounting to the sum of $72,354 31, have been regularly transferred on the books of the Bank, to the credit of the Treasury. The Treasurer, however, to enable him to meet the demands, and to defray the expences of the government, has again been compelled to anticipate the revenue derivable from this source, and he has been permitted to overdraw the Treasury credits, the sum of $38,569. If it were necessary to state the reasons that operated upon, and influenced the Directory to indulge the Treasurer in these overdrafts, they may be found in the report of November last, and which, at that time, received the implied assent and approbation of the Legislature. The same reasons there assigned, and which governed that Board of Directors, have influenced this. Looking to the consequences that would result from withholding these advances to the Treasurer, they considered it best to honor his drafts, within reasonable limits.

The President and Directors of the Louisville Branch Bank, after deducting all expences for the time, have paid to the managers of the State Hospital at that place, the sum of $7,981 52, that being the amount of net profits accruing to that Branch from the 10th day of October 1824, up to, and including the 10th day of October 1825.

The affairs of the Bank, during the present year, have been conducted, by its President and Directors, upon the same principles of economy in its expenditures, and with the same vigilance and regard to its interests and safety, as those which have heretofore governed their predecessors. No material change of policy has been adopted by the Board, since the last annual report to the

Legislature. The Bank has progressed on towards the consummation of its original objects, without any serious obstruction, except that which inevitably follows from a strong current of prejudice always consequent upon the nature and character of depreciated bank paper. The effects of that prejudice, however, which sprung from various causes, have been partially counteracted, by the skill and ability heretofore employed in the service of the institution. Under the excellent and judicious management of its former President and present officers, the Bank has withstood the shock of a most hostile and formidable array of conflicting interests and unjust prejudices. By means that cannot be considered altogether warrantable in such cases, the Bank has been denounced and violently assailed, and thereby its paper has been greatly depreciated in the public estimation. The consequence was, that for the two preceding years, and part of the present, the paper of this Bank had depreciated in value fifty per cent. It is now at a discount only of thirty-three and one third per cent. for specie, and may be quoted as current in exchange, at that rate, for almost every other commodity in the market. If the present system of curtailment of its paper in circulation, shall be continued, it is more than probable, that, in the course of the next or the succeeding year, it will approximate near to the specie standard. Should these conclusions be realized, the period is not far distant, when the Bank shall have fulfilled all its offices, and may close its concerns without other aid than its own efforts, leaving the pledges of the State undisturbed.

Calls at the rate of one per cent. per month upon the original sums loaned, as required by the first section of "an act concerning the Bank of Kentucky and the Bank of the Commonwealth," have been strictly and uniformly adhered to, without prejudice to the Bank, or imposing upon its debtors an inconvenient burthen. In most cases, these calls, with interest on the amount actually due, have been cheerfully met, and promptly paid, by that class of debtors who observe punctuality in the discharge of their debts. No system could be better adapted to control the relations existing between the bank and its debtors. Generally, the debtor has become familiar with, and attached to this uniform mode of exacting from him, at fixed and certain periods, a small portion of the demand, with interest for future indulgence; he pays his calls cheerfully, and finds, in this rule, no reasonable cause for murmuring or complaint. The institution, in the mean time, is advanced by the same rule. Frequent negotiation with the debtor, enables the Directory to enquire into his ability to make payment, and to use means, if necessary, to secure the demand with more certainty. Under this policy, the Bank will have but little difficulty in winding up its concerns, within the time limited by its charter, without probable loss, or being compelled

to resort to coercive measures to hasten its final termination. By the same gradual process of diminution, the debtors to the Bank will be enabled to liquidate and pay off the demands against them, to the satisfaction of the public, and without inconvenience or sacrifice to themselves.

That the institution is progressing, as fast as practicable, to its final close, consistent with its safety and a just administration of its affairs, will be more manifest, when its present situation is compared with that presented by former reports. Of the sum of $1,920,646 39 which remained in circulation on the first day of October 1824, the Bank has redeemed, of her notes, the sum of $484,406 73; leaving in circulation, on the 10th day of October 1825, the sum of $1,436,239 66; to redeem which, independent of the pledges of the State, contained in the charter, there was due the Bank at that date, on bills receivable and payable to Bank, the sum of $1,905,640 35, and real estate sold under mortgage and purchased in, the sum of $26,154 19; making an aggregate amount of debts due and real estate, in the hands of the managers of the institution, with which to redeem its paper, of $1,931,794 54.

It is my duty to remark, that of the whole amount of notes due the Bank, and which are (for convenience) stated as under discount, the sum of $281,899 94 was in suit on the 10th day of October last. To prevent any misapprehension on that subject, you may rest assured, that the greater part, if not the whole, are safe and collectable. On the list of delinquents are the names of some of the most solvent debtors to the Bank, and no fears are entertained, that any considerable loss will be sustained from that quarter. These delinquencies have occurred, in many cases, through mere casualties; in others, from the neglect of parties.

Recently, suits have been instituted on the notes of this Bank, against the President and Directors, by non-residents, in the circuit court of the United States for the Kentucky district, for about the sum of $20,000. Able counsel has been employed by order of the Board of Directors, to attend to that business; and for that purpose, the counsel has been regularly constituted attorney in fact, by power of attorney under the seal of the corporation, with full authority to enter an appearance, if necessary, and to make such defence in the suits as may be thought just and proper. The Bank of the Commonwealth is considered emphatically a State institution. Its capital stock is owned exclusively by, and is under the control of the Legislature, constituting a branch of the revenue system, and must be considered as a part of the government. The President and Directors have, therefore, been advised that these suits are not maintainable, for want of jurisdiction in the court before which they are brought.

It is not necessary, at this time, to enter into a detailed statement of the various items that constitute the sum total of the general expences of the institution for the last year. The President and Directors, acting under the existing laws and rules prescribed for its administration, in every instance, have acted with a scrupulous regard to the interest and advancement of the institution, and have confined its expences within the narrowest limits that the nature of its organization would admit. A great proportion, however, of these expences, has been incurred in prosecuting its claims against delinquent debtors, the costs of which, have been paid by the Bank, and will, in due time, be reimbursed.

That the expences of the whole institution might be greatly curtailed, without prejudice to its safety or inconvenience to its debtors, is unquestionable; and for that purpose, and to induce the Legislature to act upon the subject, many projects for changing or modifying the institution, have been communicated to the public. Upon these topics, it is not my business to comment. It is the duty of the President to report the proceedings and situation of the Bank; not to devise ways and means whereby its character and relations may be changed or affected.

The President and Directors, therefore, will rest satisfied with assuring the General Assembly, that, as long as they are honored with the public confidence, they will obey, with pleasure, and execute with fidelity, any policy the Legislature may adopt, for the future management of the institution.

I have the honor to be, very respectfully,
Your obedient servant,
D. WHITE, *President.*

[*See Statement on the opposite page.*]

Ordered. That the said report be referred to the committee of ways and means; and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

Mr. Breck moved the following resolution, viz.

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of so changing the law in relation to executors and administrators, as to authorize and require a *pro rata* distribution of assets in the hands of the executors or administrators, among all the creditors of the testator or intestate, in all cases where the assets may be insufficient to discharge all the debts; and that said committee report by bill or otherwise.

Which being twice read, was adopted.

Mr. Breckinridge moved the following resolutions, viz.

Whereas the Governor of the State has communicated to this house, by a message in writing, that since the last session of the General Assembly, there have arisen new causes of alarm and agitation, which demand their immediate and serious attention; and

[To face page 56.]

October, 1825.

rom hes rinci- ank.	General Expences.	CASH ON HAND. Specie.	Eastern Notes.	United States' Notes.	Bank of Kentucky notes.	Bank of the Com'wth. & Br.—Notes.	Amount due from the Treasurer.
53 88	1,607 01	2,653 76	1,340	3,939	4,381 25	674,507 25	38,569
	359 46					117,933 86	
68 15	334 23	90 00				11,217 49	
27 81	405 23	9 04		20		5,148 61	
37 95	661 99	1,127 83		15		38,264 56	
10 74	449 00	25			7 00	6,972 95	
35 65	302 41				100 00	12,144 70	
91 04						99,908 64	
16 32	1,332 54	5,750 00				41,332 20	
	934 63	5 93				1,750 51	
38 43	664 95			1,150	29 00	18,115 89	
22 52	1,987 24	248 59	187		300 00	25,092 57	
	554 72	97	1,195			13,322 78	
12 49	9,593 41	9,886 37	2,722	5,124	4,817 25	1,065,712 01	38,569

A VIEW,

ssued by the Bank and the amount in circulation on the 10th Oc 1825

tive, it may be advisable to call forth the physical power of the

A STATEMENT

[To face page 56.]

The situation of the Bank of the Commonwealth of Kentucky, on the 10th day of October, 1825.

	STOCK.	Literary Fund.	Notes payable.	Discount	Individual depositors.	Due to Branches and principal Bank.	Legislative Deposite.	Notes with-drawn and boxed up.	Notes under discount.	Notes in suit.	Real Estate.	Due from Branches and Principal Bank.	General Expences.	CASH ON HAND. Specie.	Eastern Notes.	United States' Notes.	Bank of Kentucky notes.	Bank of the Com'wth. & Br.—Notes.	Amount due from the Treasurer.
Principal Bank,	334,368 63	11,496 92	241,664 19	3,321	53,176 76	91,029 48	422,212 16	115,907 75	208,381 00	35,890 00	1,729 89	68,363 88	1,607 01	2,653 76	1,340	3,939	4,381 25	674,507 25	38,569
Br. in Lexington,		14,597 70	213,156 57	2,348	80,877 92	4,972 58		21,861 41	174,255 76		1,543 12		359 46					117,933 86	
Somerset,		7,380 39	120,435 07	1,278	123 70			21,090 68	78,290 42	14,727 13		3,468 15	334 23	90 00				11,217 49	
Greensburg,		14,383 69	170,763 75	1,728	2,989 41			9,095 06	111,924 44	32,778 89	456 41	27,027 81	405 23	9 04		20		5,148 61	
Princeton,		10,621 84	200,362 19	2,164	506 00	37,608 90		55,788 73	127,706 31	9,490 00	870 00	17,337 95	661 99	1,127 83		15		38,264 56	
Hartford,		6,182 14	90,401 75	1,757	824 25	17,138 00		15,647 26	71,528 00	15,366 50	721 63	5,610 74	449 00	25			7 00	6,972 95	
Falmouth,		8,656 74	146,856 00	1,423	2,028 08			30,011 37	67,417 00	13,189 00	4,264 00	31,535 65	302 41				100 00	12,144 70	
Louisville,		17,510 98	270,902 50		29,525 17	20,151 13		30,794 10	202,696 00			4,691 04						99,908 64	
Winchester,		16,117 91	246,199 75	3,084	13,915 06			43,482 89	135,446 68	33,154 63		18,816 32	1,332 54	5,750 00				41,332 20	
Bowlinggreen,		11,615 98	177,473 13	2,143	864 72	7,519 80			103,527 80	79,949 26	13,449 14		934 63	5 93				1,750 51	
Flemingsburg,		10,173 59	156,447 38	1,802	1,813 11	18,397 00		43,656 68	99,657 00	5,711 25	210 00	19,438 43	664 95			1,150	29 00	18,115 89	
Harrodsburg,		13,891 33	249,622 20	4,032	3,836 27	298 26		23,275 00	181,830 00	28,027 81	2,910 00	7,822 52	1,987 24	248 59	187		300 00	25,092 57	
Mountsterling,		4,288 23	86,139 82	1,408	2,005 04	7,526 39		11,601 23	61,078 00	13,615 47			554 72	97	1,195			13,322 78	
Dollars,	334,368 63	143,917 44	2,370,424 30	26,494	192,485 49	204,640 64	422,212 16	422,212 16	1,623,740 41	281,899 94	26,154 19	204,112 49	9,593 41	9,886 37	2,722	5,124	4,817 25	1,065,712 01	38,569

RECAPITULATION.

Dr.		Cr.	
To Stock,	$334,368 63	By Notes withdrawn and boxed up,	$422,212 16
Literary Fund,	143,917 44	Notes under discount,	1,623,740 41
Notes Payable,	2,370,424 30	Notes in suit,	281,899 94
Discounts, (since 1st July last,)	26,494 57	Real Estate,	26,154 19
Individual Depositors,	192,485 49	Amount due from Branches and Principal Bank,	204,112 49
Amount due to Branches and Principal Bank,	204,640 64	General expences, (since 1st July last,)	9,593 41
Legislative Deposite, (boxed and sealed up,)	422,212 16	Amount due from Treasurer,	38,569 00
		Cash on hand, viz. Specie, $9,886 37	
		Eastern Notes, 2,722 00	
		United States' Bank Notes, 5,124 00	
		Notes of the Bank of Kentucky, 4,817 25	
		Notes of the Bank of the Commonwealth and Branches, 1,065,712 01	1,088,261 63
	$3,694,543 23		$3,694,543 23

Total amount of net profits of the Bank from the 10th Oct. 1824, to the 10th Oct. 1825, 72,354 31
Out of these profits, there has been paid as a balance in full of the appropriation of
$20,000 to the Transylvania University, 2,421 56
To the Louisville Hospital, 7,981 52
To the Treasurer, 61,951 23—$72,354 31

A VIEW,

Showing the curtailment of Notes issued by the Bank, and the amount in circulation on the 10th Oct. 1825.

Total amount of Notes issued,		$2,943,620 05
Cash on hand 10th October, 1825,	$1,088,261 63	
Add the amount due from the Treasurer on that day, which having been checked for in anticipation of the revenue, will shortly be repaid, and when paid is to be considered as so much out of circulation,	38,569 00	
Add the amount of Notes cancelled and burnt,	573,035 25	
	1,699,865 88	
Deduct amount subject to be drawn for by Depositors,	192,485 49—1,507,380 39	
Amount in circulation on the 10th October, 1825,		1,436,239 66

The amount of $422,212 16, boxed up, is included in the above estimate of Cash on hand.

To redeem the Notes in circulation the Bank is vested with means as follows:

Stock due from the Bank of Kentucky,	477,460 00
Notes under discount due from individuals,	1,905,640 35
Real Estate purchased by the Bank for debts due,	26,154 19
	$2,409,254 54
Deduct amount of Notes in circulation,	1,436,239 66
Leaving an excess of means, of	$973,014 88

To the above amount of means, will be added the proceeds of the Lands west and south of Tennessee, and of other vacant lands, from time to time, as they are disposed of.

ATTEST,
O. G. WAGGENER, *Cashier.*

tation, which demand their immediate and serious attention; and

inasmuch as no *new* causes of alarm and agitation, known to this house, have arisen *since* the last session of the Legislature:

Therefore, to enable the representatives of the people to act efficiently in removing the dangers which are declared to threaten our peace and sovereignty, it is essential to obtain information more ample and minute than they at present possess.

Be it resolved by the House of Representatives of the Commonwealth of Kentucky, That the Governor be respectfully requested to communicate to this house, the particular causes of alarm and agitation, which have arisen since the last session of the Legislature.

Be it resolved, That the Governor be requested to inform this house, whether the Branches of the Bank of the United States, located in this state, have purchased any real estate within this state, other than that which they were compelled to receive in discharge of debts previously due those institutions; and if they, or either of them, have, to inform this house in what part of the state the property so purchased is situated, and from whom purchased, and whether the said Branches, or either of them, have failed to pay taxes upon any real estate they possess in this State.

Be it further resolved, That the Governor be requested to communicate to this house, any evidence he may possess to establish the charge contained in his late message, that the Branch Banks of the United States located in this State, have for a series of years carried on a systematic attack upon the legislative power of the state, with a view to render themselves independent of its authority, and to state the cases in which those Branches, or their friends, interposed to procure the vacation of the statutes of the state, upon the ground of their unconstitutionality.

Be it resolved, That the Governor be requested to inform this house, whether the Rules established by the Federal Judges for the Kentucky district, were made in pursuance of an act of Congress.

Be it resolved, That the Governor be requested to communicate to this house, any evidence he may possess, to establish the charge contained in his message, that the Bank of the United States had controlled many of our citizens, as their tenants, in the exercise of their right of suffrage; and also to inform this house, as accurately as practicable, of the number of the officers of the branches of that institution, located in this state, as well as the number and names of their tenantry and dependants, and the evidence of their being dependants.

Be it further resolved, That the Governor be requested to inform this house of the mode deemed most advisable, in the opinion of the Executive, to refuse obedience to the decisions and mandates of the Supreme Court of the United States, considered erroneous and unconstitutional, and whether, in the opinion of the Executive, it may be advisable to call forth the physical power of the

state, to resist the execution of the decisions of the Court, or in what manner the mandates of said Court should be met by disobedience.

Be it further resolved, That the Governor be requested to communicate to this house, whether he has received any assurances from the head of the Judiciary, or those claiming to be at the head of the Judiciary, that they will resist the mandates of the Supreme Court of the United States, in cases taken from the head of our Judiciary to the Supreme Court, in pursuance of the Constitution of the United States, and laws of Congress made in pursuance thereof.

Be it further resolved, That the Governor be further requested to communicate to this house, any information which he may have in his possession, that the constitutionality of the two years' replevin law, pronounced unconstitutional and void by the Court of Appeals, was never doubted until the interest of the United States' Bank made it necessary that new and more rigid principles should be incorporated into our system of government; and further, to inform this house whether the Court of Appeals has adjudicated upon any case between the Bank of the United States and a citizen of Kentucky, in which attempts were made to vacate our laws or acts of Assembly.

Be it further resolved, That the Governor be requested to inform this house, whether he intended by his message to the Legislature, to give information that he had determined to prevent, by physical force, the Judges of the Appellate Court, (those Judges whom the people and their immediate representatives have declared to be the only Judges of the Court of Appeals,) from proceeding in the discharge of their official duties.

Which being twice read, were committed to a committee of the whole house, for Tuesday the 22d instant.

Ordered, That the public printers forthwith print 150 copies thereof, for the use of the members of this house.

Mr. Underwood moved the following resolution:

Resolved, That a committee be raised to enquire into the expediency and practicability of preventing by law, a system of speculation, which is said to be carried on, in making surveys in virtue of land warrants, for the purpose of taking from patentees the surplus land embraced by their patents, in cases where the corners called for by the patents, cannot be identified; and that the committee have leave to report by bill or otherwise.

Which being twice read, was adopted; and Messrs. Underwood, Walker, Mayes, New, Wilson, Morris, Skyles and Harvey, appointed a committee pursuant thereto.

On motion,

Ordered, That leave be given to withdraw the petition from Oldham county, praying for the passage of a law to permit the citizens of said county to vote for a seat of justice for said county.

Mr. Turner moved the following resolution, viz.

Resolved, That the committee of courts of justice be instructed to enquire into the propriety of repealing all laws requiring complete records to be made, in landed controversies, by clerks of circuit courts, and all laws requiring the clerk of the court of appeals to make out a complete record, in cases decided by that court.

Which being twice read, was adopted.

Mr. New moved the following resolution:

Resolved, That the committee of courts of justice be instructed to enquire into the expediency of abolishing the office of Reporter to the Court of Appeals; and that they have leave to report by bill or otherwise.

Which being twice read, was adopted.

Mr. James presented the petitions of sundry citizens of Graves and Calloway counties, praying that a law may pass to grant to Rhoda Gaugh and Rebecca Midget, poor widows, each, the quarter section of land whereon they are respectively settled.

Which petitions were severally received, and referred to a select committee of Messrs. James, Porter and New.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz. By Mr. Crittenden, from the committee for courts of justice, 1, a bill authorising the sale of certain ground in the town of Russellville; 2, a bill for the benefit of the clerk of the Hopkins circuit court; 3, a bill to repeal an act entitled "an act to repeal the law organizing the Court of Appeals, and to re-organize a Court of Appeals," and also, an act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes; by Mr. Davis, 4, a bill to establish an election precinct in Montgomery county; by Mr. Wade, 5, a bill to compel the owners of warehouses and inspections, to keep therein scales and weights, made of cast iron; and 6, a bill to compel free persons of colour to work on roads and highways.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 4th and 6th bills having been dispensed with, the 1st and 2d were ordered to be engrossed and read a third time; the 4th was committed to a select committee of Messrs. James, Davis, Marshall, Porter, M'Connell and Elliston; and the 6th to a committee of the whole house.

And thereupon the rule of the house, constitutional provision and third reading of the first and second bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Davis carry the said bills to the Senate, and request their concurrence.

Leave was given to bring in the following bills:

On the motion of Mr. James—1. A bill to amend the acts in relation to the town of Columbus, and to authorize the trustees of said town to sell an additional number of lots therein.

On the motion of Mr. Marshall—2. A bill to repeal an act entitled "an act to regulate endorsements on executions," approved January 5, 1824.

On the motion of Mr. Coombs—3. A bill to alter the time of holding the circuit and county courts of Hart county, and to legalize the proceedings of the county court of said county.

On the motion of Mr. Slaughter—4. A bill to amend an act entitled "an act to amend the law for the recovery of debts cognizable before a justice of the peace," approved February 1st, 1809.

On the motion of Mr. Porter—5. A bill for the benefit of Joshua Talbot, of Butler county.

On the motion of Mr. Coleman—6. A bill to alter the time of the annual meeting of the General Assembly.

On the motion of Mr. Slaughter—7. A bill for the benefit of Jacob Renner.

And on the motion of Mr. M'Millan—8. A bill to alter the mode of making surveys south of Walker's line, and north of the latitude 36 degrees 30 minutes, north, and to authorize the appropriation of a less quantity than one hundred acres, and also to reduce the price of land warrants for that section of country.

Messrs. James, Prince, Underwood and New, were appointed a committee to prepare and bring in the first; Messrs. Marshall, M'Connell and Coleman, the second; Messrs. Coombs, Underwood, Sterrett and Hall, the third; Messrs. Slaughter, Green and Logan, the fourth; Messrs. Porter, Cosby, James and Wilcoxen, the fifth; Messrs. Coleman, Cunningham, Marshall and Chenowith, the sixth; Messrs. Slaughter, Farmer, Turner and White, the seventh; and Messrs. M'Millan, Underwood, Mayes and Owsley, the eighth.

Mr. Wilcoxen moved for leave to bring in a bill to remove the seat of government to some more central point; and the question being taken on granting leave to bring in said bill, it was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Wade and Wilcoxen, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Breck, Breckinridge, Brown, Bruton, Clay, Chenowith, Coombs, Cosby, Cowan, Cox, Cunningham, Dyer, Farmer, Gordon, Green, Grundy, Hall, Hansford, Hardin, Harvey, Haskin, James, Martin, Maupin, Mayes, M'Clanahan, M'Connell, Miller, M'Millan, Morris, Napier, New, Owsley, Payne, Porter, Prince, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, True, Turner, Underwood, Wade, Walker, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, A. White, S. White, Woodson and Yantis—60.

NAYS—Messrs. Blackburn, Bruce, Carter, Coleman, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Hanson, Hutchison, Lee, Logan, Marshall, Mullens, Nuttall, Owings, Perrin, Reed, Samuel, Stephens, Tarlton, Richard Taylor, Robert Taylor, Timberlake, Thomasson, Waddell and Ward—34.

The Speaker, upon the state of the vote being announced, declared, that as the constitution requires two thirds of the members elected in either house, to concur in the passage of the bill, it was his opinion that it required the same number of two thirds, to concur in each of its progressive stages through the house, and that the motion was negatived.

From which decision of the Speaker, Mr. Cosby appealed to the house.

The question was then put, "is the decision of the Speaker correct?" which was decided in the negative.

The yeas and nays being required thereon by Messrs. Cosby and Wade, were as follows:

YEAS—Messrs. Blackburn, Carter, Coleman, Cowan, Cunningnam, Daniel, Duke, Dunlap, Dyer, Evans, Fletcher, Ford, Fulton, Gaines, Hutchison, Lee, Logan, Marshall, Mayes, Mullens, Owings, Owsley, Prince, Reed, Tarlton, Robert Taylor, Waddell and Yantis—29.

NAYS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Breck, Breckinridge, Brown, Bruce, Bruton, Clay, Chenowith, Coombs, Cosby, Cox, Davis, Elliston, Farmer, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, James, Martin, Maupin, M'Clanahan, M'Connell, Miller, M'Millan, Napier, New, Nuttall, Payne, Perrin, Porter, Samuel, Skyles, Slaughter, Spalding, Stephens, Sterrett, Street, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, A. White, S. White and Woodson—63.

Whereupon Messrs. Wade, Wilcoxen, Green, Cosby, Hardin, Martin, Prince, Allin, of (Mercer,) Payne, Underwood and Yantis, were appointed a committee to prepare and bring in said bill.

A bill from the Senate entitled "an act to authorize the insertion of certain advertisements in the paper published in Lexington, entitled the Kentucky Whig," was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was committed to a select committee of Messrs. Crittenden, Ward, Walker, M'Clanahan, Prince and Breckinridge.

After a short time, Mr. Crittenden, from said committee, reported said bill with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be laid on the table.

And then the house adjourned.

FRIDAY, NOVEMBER 11, 1825.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate have adopted resolutions relative to the Transylvania University, and requiring information of the trustees thereof, in relation to the same; in which resolutions they request the concurrence of this house.

And then he withdrew.

1. Mr. New presented the petition of Catherine Willis and John B. Willis, praying to be divorced from each other.

2. Also, the petition of Abraham Sears, and Sally Sears, his wife, praying to be divorced from each other.

3. Also, the petition of the heirs of Nicholas M. Anderson, deceased, (those who are under age, by their guardian,) praying that a law may pass authorising the sale of a tract of land lying in Todd county.

4. Mr. Cox presented the petition of James Jeffries, praying a divorce from his wife, Sally Jeffries.

5. Mr. Robert Taylor presented the petition of Robert Pogue, representing that the State of Virginia delivered to General George Rogers Clark, a number of land-warrants, for the purpose of raising funds to enable him to carry on an expedition against the hostile Indians; and that said Clark caused to be located, west of the Tennessee river, some of those warrants, to the amount of 101,920 acres, *in the name and for the benefit* of the State of Virginia; that Joseph Lindsey, (who intermarried with the petitioner's mother,) being the commissary to the army commanded by said Clark, *upon the faith and with the understanding* that he was to be paid out of said 101,920 acres of land, agreed with General Clark, and accordingly did furnish supplies to the troops, and was, in a short time thereafter, killed, at the battle of the Blue Licks, without ever having received any compensation for his services, or return of advances of money made by him, to obtain supplies; that said Lindsey devised to his wife, Ann Lindsey, the claim aforesaid, among other things, who devised one half to Oswald Thomas, and the other half to the petitioner, to whom the claim of said Thomas has been regularly assigned; that the papers of said Lindsey, after his death, were delivered to General Clark, with a view to a settlement of said Lindsey's accounts, and have ever since been missing, and praying that a law may pass, granting to him the said 101,920 acres of land, or such portion thereof as he may be found entitled to.

6. Mr. Skyles presented the petition of Mary Ann Cherry, praying compensation for the safe-keeping and maintenance of Charles Buckler, a person of unsound mind.

7. Mr. Brown presented the petition of Frank Carr, of the State of Virginia, praying that a law may pass to authorize him to compromise, in behalf of his infant son, (in conjunction with the other heirs of Richard Terrill, deceased,) certain conflicting claims to land, lying in this State.

8. Mr. Dyer presented the petition of Margaret Rowe, praying that a law may pass to exonerate her from the payment of a note executed by her to the administrators of her deceased husband, for property purchased by her at the sale of said estate.

9. Mr. Logan presented the petition of sundry citizens of Shelby county, praying that a law may pass to establish an election precinct therein.

10. And Mr. Sterrett presented the petition of Judith Martin, praying a divorce from her husband, Reuben Martin.

Which petitions were severally received, read and referred; the 1st, 2d, 4th and 10th to the committee of religion; the 3d, 5th, 7th and 8th, to the committee for courts of Justice; the 6th to the committee of claims; and the 9th to the committee of propositions and grievances.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act to enlarge the constable's district including the town of Bowlinggreen;" and had found the same truly enrolled.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Blackburn, from the committee of propositions and grievances, made the following reports:

The committtee of propositions and grievances have, according to order, had under their consideration the petition of George Owings, praying for the grant of a quarter section of land in Calloway county, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *is reasonable*.

The committee of propositions and grievances have, according to order, had under their consideration the petition of James Lindsey, supported by the signatures of many of the citizens of Edmondson county, praying that the said Lindsey may have leave to erect a dam across Green river, at the mouth of Nolin, for the purpose of a water grist mill, under such restrictions as the Legislature may think proper to impose, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *is reasonable*.

Which being twice read, were concurred in.

Ordered, That said committee prepare and bring in bills pursuant to said resolutions.

Mr. Hanson, from the committee to whom was referred the petition of Absalom Oldham, contesting the election of Anselm Dan-

iel, the member returned from the county of Estill, made the following report:

The select committee to whom was referred the petition of Absalom Oldham, contesting the election of Anselm Daniel, as a representative in the present General Assembly, respectfully report:

That on the investigation before your committee, the petitioner waived every objection to the legality of said Daniel's election, except that said Daniel had not attained to the age of twenty-four years, on the first Monday in August last.

It appears to your committee, from the admissions of the petitioner and the said Daniel, that said Daniel was born on the second day of August, 1801. It also appears, that the last general election commenced on the first day of the month; that in Estill county, said election continued three days; and that on each day, said Daniel received votes.

Your committee are of opinion, that the said Daniel, at the time of his election, had attained to the age of twenty-four years, and, therefore, recommend the adoption of the following resolution:

Resolved, That Anselm Daniel is entitled to a seat in this house, as the representative of Estill county, in the present General Assembly.

Ordered, That the said report be committed to a committee of the whole house for this day, and that the parties be permitted to be heard, before said committee, by counsel.

On motion,

Ordered, That leave be given to withdraw the petition of the citizens of Oldham county, praying the removal of the seat of justice to the town of Westport.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on yesterday, approve and sign enrolled resolutions which originated in the House of Representatives, of the following titles, viz:

Resolutions occasioned by the death of Colonel Solomon P. Sharp.

A Resolution authorising the Governor to offer a reward for the detection and apprehension of the murderer of Solomon P. Sharp.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz. By Mr. Maupin, 1, a bill to alter the mode of taking in lists of taxable property; by Mr. Wingate, 2, a bill to regulate the appropriation of fines and forfeitures in the county of Owen; 3, a bill to amend the act entitled "an act to provide for running and marking the county lines between the counties of Owen and Grant; by Mr. Coleman, 4, a

bill to alter the time of the annual meeting of the General Assembly; by Mr. Hall, 5, a bill for the benefit of the widow and heirs of Richard Lewis, deceased; by Mr. Marshall, 6, a bill to repeal an act entitled "an act to amend the act to regulate endorsements on executions," approved January 5, 1824; by Mr. Blackburn, from the committee of propositions and grievances, 7, a bill to remove the seat of justice of Oldham county; by Mr. Green, 8, a bill to allow additional justices of the peace to sundry counties; and by Mr. Slaughter, 9, a bill to amend an act entitled "an act to amend the law for the recovery of debts cognizable before a justice of the peace."

Which bills were severally received and read the first time, and ordered to be read a second time.

The yeas and nays being required on reading the sixth bill a second time, by Messrs. Thomas and Blackburn, were as follows, viz.

YEAS—Messrs. Breckinridge, Brown, Bruce, Clay, Chenowith, Coombs, Cowan, Cunningham, Davis, Dyer, Elliston, Farmer, Fletcher, Ford, Gaines, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Lee, Logan, Marshall, Martin, M'Clanahan, M'Connell, Mullens, Nuttall, Owings, Perrin, Porter, Samuel, Slaughter, Stephens, Sterrett, Tarlton, Robert Taylor, Timberlake, Thomas, Thomasson, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilcoxen, and Wingate—49.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Bruton, Cosby, Cox, Duke, Evans, Fulton, Gordon, Green, Grundy, Hall, Haskin, Maupin, Mayes, Miller, M'Millan, Morris, Napier, New, Owsley, Payne, Prince, Reed, Skyles, Spalding, Street, Richard Taylor, Z. Taylor, Turner, Underwood, Wilson, A. White, S. White, Woodson and Yantis—41.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d and 5th bills having been dispensed with, the first was committed to a select committee of Messrs. Turner, Maupin, Logan, Underwood, Walker and Woodson; the second to a select committee of Messrs. Spalding, Wingate and Barbee; and the 5th to a select committee of Messrs. Walker, Hall and Taylor (of Adair); and the third was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Wingate carry the said bill to the Senate and request their concurrence.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, Mr. Blackburn in the chair; which being resumed by the Speaker, Mr. Blackburn reported, that the committee had, according to order, had under consideration the report of the select committee to whom was referred the petition of Absalom Oldham, contesting the election of

Anselm Daniel, the member returned from the county of Estill, and had gone through the same without amendment.

The said report was then twice read and concurred in.

Mr. M'Connell, from the select committee appointed for that purpose, made the following report:

The select committee to whom was referred the petition of sundry citizens of Lawrence county, praying the establishment of a new election precinct in said county, have had the same under consideration, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *is reasonable.*

Which being twice read, was concurred in, and said committee directed to prepare and bring in a bill pursuant thereto.

A message was received from the Senate, announcing the passage of bills of the following titles: An act to alter the time of holding the Meade circuit court, and an act for the benefit of the Judge of the 13th judicial district.

The latter bill was then taken up and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bill having been dispensed with,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Cosby inform the Senate thereof.

And then the house adjourned.

SATURDAY, NOVEMBER 12, 1825.

1. Mr. Mullens presented the petition of the members of the county court of Pendleton, praying that a copy of the Digest of the Laws of Kentucky, and the subsequent acts of Assembly, be allowed to a Justice of the Peace for said county.

2. Mr. Davis presented the petition of the Trustees of the Town of Mountsterling, praying that the limits of said town be extended to include a public well.

Which petitions were severally received, read and referred; the first to a select committee of Messrs. Mullens, Gaines, Coleman, Carter, Sterrett and Napier; and the second to the committee of propositions and grievances.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, in obedience to the order of the House, had under their consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

1. *Resolved*, as the opinion of the committee of propositions and grievances, that the petition of the citizens of Smithland, praying the establishment of a Hospital for the protection of the sick and afflicted who are by casualty thrown into that town, *is reasonable.*

And *resolved further*, that a law ought to pass, appropriating, for one year, the net profits of the Branch Bank of the Commonwealth at Princeton, to that object.

2. *Resolved*, as the opinion of the committee of propositions and grievances, that the petition of the citizens of Hardin county, praying the Legislature to change the place of holding the election in the eastern precinct, from where it has been heretofore held, to Abraham Miller's, *is reasonable.*

3. *Resolved*, as the opinion of the committee of propositions and grievances, that so much of the petition of the Trustees of the Hart Seminary as requests the passage of a law authorising them to list their lands for taxation and redeem them from the penalties of the law which have attached to them for failing to list them, *is reasonable;* and so much of said petition as asks for the appropriation of the fines and forfeitures in Hart county to be appropriated to the payment of the taxes due thereon, *be rejected.*

4. *Resolved*, as the opinion of the committee of propositions and grievances, that the petition of Henry Boshong, praying for compensation for his land over which the road from Danville in Kentucky, in the direction to Murfreesborough in Tennessee, passes, and the timber which was necessarily cut in opening said road through his land, *be rejected.*

5. *Resolved*, as the opinion of the committee of propositions and grievances, that the petition of the citizens of Shelby county, praying for the establishment of a precinct in the western end of said county, the elections to be held at Simpsonville, *is reasonable.*

Which being twice read was concurred in.

Ordered, That said committee prepare and bring in bills, pursuant to the first, second, third and fifth resolutions:

Mr. Mayes, from the committee of religion, made the following report:

The committe of religion, to whom was referred sundry petitions, have, according to order, had the same under consideration, and have come to the following resolutions.

1. *Resolved*, That the petition of Mary Dogan, praying that she may be divorced from her husband, John Dogan, *be rejected.*

2. *Resolved*, That the petition of Celia Doss, praying that she may be divorced from her husband, Azariah Doss, *be rejected.*

3. *Resolved*, That the petition of Patsey Birdsong, praying that she may be divorced from her husband, William Birdsong, *be rejected.*

4. *Resolved*, That the petition of Polly Lyntacom, praying that she may be divorced from her husband, Rice B. Lyntacom, *be rejected.*

5. *Resolved*, That the petition of James Jeffries, praying that he may be divorced from his wife, Sally Jeffries, *be rejected.*

6. *Resolved*, That the petition of John B. Willis and Catherine Willis, praying that they may be divorced, *be rejected.*

7. *Resolved*, That the petition of Jane St. Clair Robinson, praying that she may be divorced from her husband, Samuel Robinson, *be rejected.*

8. *Resolved*, That the petition of Abraham Sears and Sally Sears, praying that they may be divorced, *be rejected.*

9. *Resolved*, That the petition of Judith Martin, praying that she may be divorced from her husband, Reuben Martin, *be rejected.*

10. *Resolved*, That the petition of Nancy Simpson, praying that she may be divorced from her husband, David Simpson, *be rejected.*

11. *Resolved*, That the petition of John Dick, praying that he may be divorced from his wife, Elizabeth Dick, *be rejected.*

Which being twice read, was concurred in.

Mr. James, from the select committee to whom was referred a bill to establish an election precinct in Montgomery county, reported the same with amendments; which being twice read, were concurred in.

Ordered, That the said bill, as amended, be re-committed to a select committee of Messrs. M'Connell, Underwood and Davis.

Mr. Spalding, from the select committee to whom was referred a bill to regulate the appropriation of fines and forfeitures in the county of Owen, reported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read, "an act to regulate the appropriation of fines and forfeitures in certain counties of this Commonwealth."

Ordered, That Mr. Wingate carry the said bill to the Senate and request their concurrence.

A message from the Senate, by Mr. Lockett:

Mr. Speaker—The Senate have passed a bill entitled "an act for the benefit of the Clerk of the Hopkins circuit court," with an amendment, in which they request the concurrence of this house.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Bruce—1. A bill to authorize the Trustees of the Lewis Academy, to sell the lands belonging to that institution.

By Mr. Dyer—2. A bill to provide for the safe-keeping of Francis Erwin.

By Mr. Lee—3. A bill to alter the mode of appointing Trustees of the Fleming Academy.

By Mr. Chenowith—4. A bill to change the place of holding the election in the eastern precinct in Hardin county.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second and fourth bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Dyer carry the said bills to the Senate, and request their concurrence.

A bill to repeal an act entitled "an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals," and also, an act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes," was read a second time, and ordered to be engrossed and read a third time on Monday next.

Mr. Hanson moved for leave to bring in a bill to continue in force the law providing for the appointment of Commonwealth's attorneys.

Ordered, That the title presented on the motion aforesaid, be referred to the committee for courts of justice.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on yesterday, approve and sign an enrolled bill which originated in this house, entitled "an act to enlarge the constable's district including the town of Bowlinggreen." And I am instructed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz.

Gentlemen of the Senate,

and of the House of Representatives:

The General Assembly having at its last session requested me to open a correspondence with the Governor of Tennessee, concerning the Road from Danville in this state, to the State line, in the direction of Murfreesborough, I did, on the 6th of July last, address a letter to him, inviting his attention to the subject, and expressing the wish of the General Assembly of Kentucky. A copy of that communication is herewith transmitted. No answer has yet been received from the Governor of Tennessee.

JOSEPH DESHA.

Nov. 12, 1825.

STATE OF KENTUCKY,
Executive Department, July 6, 1825.

SIR:

By a resolution of the Legislature of this State, approved January 12, 1825, the Governor is "requested to open a correspondence with the Governor of Tennessee, on the subject of the State Road from Danville in this state, by way of Columbia and Tompkinsville, to Murfreesborough in Tennessee; that he communicate to him the measures taken by Kentucky to open and preserve said road, and respectfully solicit the attention of that Government, to the expediency of complying and permitting the road to be opened to this point."

Pursuant to the request contained in the above mentioned resolution, I have now the honor to invite, through you, the attention of the State of Tennessee to this subject, which, it is presumed, is alike interesting to Tennessee and Kentucky.

On the 21st December, 1820, an act of the Legislature of this State, appointed viewers, and directed them to view and cause to be surveyed and marked, "the best and most practicable route for a road commencing at Danville, thence to the Tennessee line, in a direction to Murfreesborough." These viewers reported a performance of their duty, by a report dated October 27th, 1821, accompanied by a plat of the route surveyed, both which are deposited in this department. From these, it appears that the road, commencing at Danville, passes successively through the towns of Liberty, Columbia and Tompkinsville, and strikes the State line at the distance of 5 1-2 miles from the latter place. The road thus surveyed, has, by Kentucky, been declared a State Road, and the County Courts of the counties through which it passes, have been directed to open it forty feet wide, and keep it in good repair. The continuation of this road to Murfreesborough, would, it is believed, be of benefit to both States. To Kentucky, the road already opened by her, would be rendered much more useful; whilst, to Tennessee, it is suggested that equal benefit would arise.

I have the honor to be, your obedient servant,

JOSEPH DESHA.

His Excellency, the Governor of Tennessee.

Ordered, That the said message and the accompanying document, be referred to a select committee of Messrs. Green, Napier, Walker, M'Millan, Maupin, Owsley and S. White.

Mr. Hall read and laid on the table a joint resolution for appointing joint committees to examine the Auditor's, Treasurer's and Register's offices.

Mr. Maupin, from the select committee to whom was referred a bill to alter the mode of taking in lists of taxable property, re-

ported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time on Monday next.

Mr. Hanson read and laid on the table a joint resolution for appointing a joint committee to examine the Bank of the Commonwealth, and to cancel by burning, a portion of the notes of said Bank.

A bill from the Senate entitled "an act authorising the insertion of certain advertisements in the paper published in Lexington, entitled the Kentucky Whig," was ordered to be read a third time as amended.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with,

Resolved, That the said bill, as amended, do pass.

Ordered, That Mr. Coleman inform the Senate thereof, and request their concurrence in said amendments.

The amendments proposed by the Senate to a bill from this house, entitled "an act for the benefit of the clerk of the Hopkins circuit court," were twice read and concurred in.

Ordered, That Mr. Brown inform the Senate thereof.

A bill from the Senate entitled "an act to change the time of holding the Meade county court," was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bill having been dispensed with,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Chenowith inform the Senate thereof.

A resolution from the Senate relative to the Transylvania University, and requiring information of the Trustees thereof in relation to the same, was taken up, twice read and concurred in.

Ordered, That Mr. Payne inform the Senate thereof.

The following bills were severally read a second time: 1, A bill to compel the owners of warehouses and inspections, to keep therein scales and weights made of cast iron; 2, a bill to repeal an act entitled "an act to amend the act to regulate endorsements on executions," approved January 5th, 1824; 3, a bill to remove the seat of justice of Oldham county; 4, a bill to allow additional justices of the peace to sundry counties; 5, a bill to amend an act entitled "an act to amend the law for the recovery of debts cognizable before a justice of the peace."

The first having been amended, was committed to a select committee of Messrs. Hall, Underwood, Green, Wade, Gordon and Maupin; the second was laid on the table; the third and fifth were ordered to be engrossed and read a third time; and the fourth

was committed to a select committee of Messrs. Barbee, Green, Wingate and Waddell.

And thereupon the rule of the house, constitutional provision, and second and third readings of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Thomasson carry the said bill to the Senate, and request their concurrence.

A bill to alter the time of the annual meeting of the General Assembly, was read a second time as follows, viz.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, the General Assembly shall meet on the first Monday in December, annually, any law to the contrary notwithstanding.

And the question being taken on engrossing said bill and reading it a third time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon, by Messrs. Maupin and Coleman, were as follows, viz.

YEAS—Messrs. Bainbridge, Carter, Chenowith, Coleman, Cowan, Crittenden, Elliston, Evans, Farmer, Fulton, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, James, Marshall, Martin, Mayes, M'Clanahan, M'Connell, M'Millan, Morris, Mullens, New, Owings, Perrin, Spalding, Sterrett, Robert Taylor, Timberlake, Thomas, Underwood, Waddell, B. E. Watkins, Wingate, A. White, Woodson and Yantis—40.

NAYS—Mr. Speaker, Messrs. James Allen, Barbee, Breck, Bruce, Bruton, Clay, Coombs, Cunningham, Daniel, Davis, Dyer, Fletcher, Ford, Gordon, Green, Grundy, Hall, Lee, Maupin, Miller, Napier, Nuttall, Owsley, Porter, Reed, Samuel, Skyles, Stephens, Street, Tarlton, Richard Taylor, Z. Taylor, Thomasson, Turner, Wade, Walker, E. Watkins, Wilcoxen, Wilson and S. White—41.

Mr. Morris moved the following resolution:

Resolved by the House of Representatives, That the committee for courts of justice be instructed to enquire into the expediency of consolidating the prosecuting attorneys for the county and circuit courts, and that their appointment be given to the county courts respectively; and that said committee have leave to report by bill or otherwise.

Which being twice read, was adopted.

Leave was given to bring in the following bills:

On the motion of Mr. Fulton—1. A bill to authorize the county court of Nicholas, to permit gates to be put on that part of the State road leading from Millersburg to Flemingsburg, lying between Joseph Morgan's and Benjamin Lawrens'.

On the motion of Mr. Bainbridge—2. A bill to alter the time of holding the Washington county court.

On the motion of Mr. Hanson—3. A bill to establish an election precinct in the county of Clark.

On the motion of Mr. Wilcoxen—4. A bill to cause those who have dug wells in Bullitt county for salt water, and failed, to cause them to be filled up.

On the motion of Mr. Thomas—5. A bill further to regulate the debt due the Commonwealth for the sale of vacant lands.

And on the motion of Mr. Porter—6. A bill for the benefit of William Davis.

Messrs. Fulton, M'Clanahan and Marshall, were appointed a committee to prepare and bring in the first; Messrs. Bainbridge, Cosby and Grundy, the second; Messrs. Hanson, Evans and Gaines, the third; Messrs. Wilcoxen, Hardin, Thomasson and White, the fourth; Messrs. Thomas, Underwood, Mayes, Dyer and Morris, the fifth; and Messrs. Porter, Wilcoxen and Morris, the sixth.

And then the house adjourned.

MONDAY, NOVEMBER 14, 1825.

Mr. Alexander Lackey, a member returned to serve in this House from the counties of Floyd and Pike, appeared, produced a certificate of his election, and of his having taken the oaths prescribed by the constitution of the United States and the constitution and laws of this State, and took his seat.

1. Mr. Mullens presented the petition of Mary Valendingham, praying a divorce from her husband, Daniel Valendingham.

2. Mr. E. Watkins presented the petition of Peter Shull, praying that a law may pass, authorising the surveyor of Muhlenberg county to correct an error made by him in the course of a survey for 200 acres, for which he has received a patent, and praying that the patent aforesaid may be cancelled, and another issued to conform to the amended survey.

3. Mr. Miller presented the petition of sundry citizens of this commonwealth, praying the charitable interposition of the Legislature in behalf of the heirs of Micajah Shelton, deceased.

4. Mr. Haskin presented the petition of the administrators of John Smock, deceased, praying that a law may pass to authorise a sale of a part of the real estate of the decedent, to be applied, (in aid of the personal estate,) in discharge of the debts of said decedent.

5. And Mr. Street presented the petition of Nancy Hogan, praying a divorce from her husband, William Hogan.

Which petitions were severally received, read and referred; the first and fifth to the committee of religion; the second and fourth to the committee for courts of justice; and the third to a select committee of Messrs. Miller, Morris, Crittenden and Napier.

Mr. Davis, from the select committee to whom was referred a bill to establish an election precinct in Montgomery county, reported the same with an amendment, which being twice read, was concurred in, and the said bill as amended, ordered to be engrossed and read a third time.

And thereupon, the rule of the house, constitutional provision, and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read, an act to establish election precincts in certain counties.

Ordered, That Mr. Davis carry the said bill to the Senate, and request their concurrence.

Mr. Bainbridge, from the select committee appointed for that purpose, reported a bill to alter the time of holding the Washington county courts; which was received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Bainbridge carry the said bill to the Senate, and request their concurrence.

Engrossed bills of the following titles were read a third time: 1, an act to alter the mode of taking in lists of taxable property; and 2, an act to amend an act entitled, "an act to amend the law for the recovery of debts cognizable before a justice of the peace."

Ordered, That the first be laid on the table; and that the public printers forthwith print 150 copies of said bill, for the use of the members of this house.

Resolved, That the second bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Slaughter carry the said bill to the Senate, and request their concurrence.

An engrossed bill entitled an act to repeal an act entitled "an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals," and also, an act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes," was read a third time.

It was then moved and seconded to lay the said bill on the table; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Hall and Maupin, were as follows, viz:

YEAS—Messrs. James Allen, Barbee, Breck, Carter, Clay, Chenowith, Coombs, Crittenden, Daniel, Dyer, Elliston, Fletcher, Fulton, Gordon, Hall, Haskin, James, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Napier, Nuttall, Porter, Prince, Samuel, Spalding, Stephens, Thomas, Wade, Wilcoxen, Wingate and S. White—36.

NAYS—Mr. Speaker, Messrs. Bainbridge, Brown, Bruce, Bruton, Cowan, Cunningnam, Davis, Duke, Ford, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, Marshall, Mayes, M'Connell, Morris, Mullens, Owsley, Perrin, Reed, Skyles, Sterrett, Street, Richard Taylor, Robert Taylor

Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, E. Watkins, Wilson, A. White, Woodson and Yantis—44.

The said bill was then amended by the following engrossed clause by way of ryder, viz:

Provided, That the 32nd section of the said act of the 24th of December, 1824, is to be taken and considered as remaining in full force and unrepealed by any thing in this act contained.

Mr. Hall moved further to amend said bill by attaching thereto the following engrossed clause by way of ryder, viz:

"*Be it further enacted*, That the salaries of the Judges of the Court of Appeals, shall hereafter be twelve hundred dollars each, to be paid quarter annually."

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Lee and Maupin, were as follows, viz:

YEAS—Messrs. Barbee, Breck, Brown, Bruce, Bruton, Clay, Chenowith, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gaines, Gibson, Grundy, Hall, Hansford, Hanson, Hardin, Haskin, Hutchison, James, Lackey, Lee, Marshall, Martin, Maupin, Mayes, M'Clanahan, M'Connell, Miller, M'Millan, Morris, Mullens, Napier, New, Nuttall, Owings, Owsley, Perrin, Porter, Prince, Samuel, Skyles, Spalding, Stephens, Street, Tarleton, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Waddell, Wade, Walker, Wilcoxen, Wilson, Wingate, A. White, S. White, Woodson and Yantis—77.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Carter, Crittenden, Gordon, Green, Harvey, Logan, Reed, Sterrett, Richard Taylor and E. Watkins—13.

The question was then taken on the passage of said bill, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Hall and M'Clanahan, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, Wilson, A. White, Woodson and Yantis—58.

NAYS—Messrs. J. J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Spalding, Stephens, Tarleton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—37.

Ordered, That Mr. Richard Taylor carry the said bill to the Senate, and request their concurrence.

Mr. Crittenden presented the petition of Melinda Lawrence, praying a divorce from her husband, David Lawrence.

Which was received, read and referred to the committee of religion.

Mr. M'Connell, moved the following resolution:

Resolved, That his Excellency, the Governor, be respectfully requested to inform this house at what time the first dividend of public arms was due from the general government to this state, under the act of Congress appropriating two hundred thousand dollars annually for the manufacture or purchase of public arms; what has been the quantity annually received since the first dividend was so due; is the general government now in arrear to this state for any of those arms, and if so, what quantity? what disposition has been made of the arms so received by this State from the general government? has distribution been made amongst any of the volunteer companies in pursuance of an act of Assembly on that subject; if so, to what companies and in what regiments, and what quantity of arms has been received by the commandant of each of those companies; what quantity and what description of arms have not been distributed, and how are they disposed of?

Which being twice read, was concurred in.

On motion,

Ordered, That a bill to repeal an act entitled "an act to amend the act to regulate endorsements on executions," approved January 5, 1824, be recommitted to a select committee, of Messrs. Marshall, Hardin, Breck, M'Connell and Hanson.

Mr. Spalding moved for leave to bring in a bill to reduce the salaries of the circuit court Judges of this commonwealth.

Ordered, That the title presented on the motion aforesaid, be referred to the committee for courts of justice.

The following bills were severally read a second time, and ordered to be engrossed and read a third time: 1, A bill to authorize the Trustees of the Lewis Academy, to sell the lands belonging to that institution; and 2, a bill to alter the mode of appointing Trustees to the Fleming Academy.

And thereupon the rule of the house, constitutional provision and third reading of said bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Bruce carry the said bills to the Senate and request their concurrence.

The house tok up a resolution laid on the table on the 12th instant, for appointing joint committees to examine the different public offices, which being twice read and amended, was concurred in, as follows:

Resolved by the Senate and House of Representatives, That a committee of three from the Senate and six from the House of Represenatives, be appointed to examine and report the condition of the Treasurer's office; three from the Senate and six from the House of Representatives, to examine and report the condition of the

Auditor's office; and three from the Senate and six from the House of Representatives, to examine and report the condition of the Registers' office; of four from the Senate and eight from the House of Representatives, to examine and report the condition of the Penitentiary; and a committee of four from the Senate and eight from the House of Representatives, to examine and report the condition of the Bank of Kentucky, whose duty it shall be to count all the specie and paper in the vaults of said Bank, distinguishing particularly the kind and amount of each kind of paper; and the said committees shall have power to send for persons, papers and records, for their information.

Ordered, That Mr. Hall carry the said resolution to the Senate and request their concurrence.

Mr. Brown presented the petition of John Williamson, administrator of Isaac Conclude, deceased, a free man of colour, praying that a law may pass to confirm the purchase made by him, as administrator, of a negro woman slave, the daughter of the decedent, with the funds belonging to the estate.

Which was received, read and referred to a select committee of Messrs. Brown, Thomasson and R. Taylor.

Mr. Wade, from the select committee to whom was referred a bill to compel the owners of warehouses and inspections, to keep therein scales and weights, or patent balances, reported the same with an amendment; which being twice read was concurred in, and the said bill as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Wade carry the said bill to the Senate and request their concurrence.

On the motion of Mr. Haskin,

Ordered, That leave be given to bring in a bill for the benefit of the county court of Mercer; and that Messrs. Haskin, Wade and Allin, prepare and bring in the same.

On motion,

Ordered, That Mr. Z. Taylor be added to the committee to whom was referred so much of the Governor's message as relates to the militia.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, on a bill to compel free persons of colour to work on roads and highways, Mr. Yantis in the chair; and after some spent therein, the Speaker resumed the chair, and Mr. Yantis reported that the committee had, according to order, had under consideration said bill, and made some

progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

The question was then put on granting said committee leave to sit again, which was decided in the negative.

Ordered, That the said bill be referred to a select committee of Messrs. Chenowith, Wingate, Hardin, Hall, M'Clanahan and Wade.

And then the house adjourned.

TUESDAY, NOVEMBER 15, 1825.

Mr. John J. Allin, from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles: An act to change the time of holding the Meade circuit court; an act for the benefit of the Judge of the 13th judicial district; and resolutions relative to the Transylvania University, and requiring information of the trustees thereof in relation to the same; and had found the same truly enrolled.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. John J. Allin inform the Senate thereof.

A message from the Senate, by Mr. Howard:

Mr. Speaker—The Senate have adopted resolutions raising joint committees to examine and report the condition of the several public offices; in which resolutions they request the concurrence of this house.

And then he withdrew.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee on courts of justice have, according to order, had under consideration the petition of Margaret Rowe, and have come to the following resolution thereon, to wit:

Resolved, That said petition *be rejected*.

The committee on courts of justice have, according to order, had under consideration the petition of Peter Shull, and have come to the following resolution thereon, to wit:

Resolved, That said petition *be rejected*.

The committee on courts of justice, according to order, have had under consideration the petition of the heirs of Nicholas M. Anderson, and have come to the following resolution thereon, to wit:

Resolved, That said petition *be rejected*.

Which being twice read, was concurred in.

Mr. Underwood, from the same committee, made the following report, viz.

The committee on courts of justice, to whom was referred, the propriety of granting leave to introduce a bill to continue in force the law concerning Commonwealth's attorneys, have come to the following resolution thereon, to wit:

Resolved, That it is inexpedient to grant leave to introduce said bill.

Which being twice read and amended by striking out the word "*inexpedient*," and inserting in lieu thereof the word "*expedient*," was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Underwood, from the same committee, made the following report, viz.

The committee on courts of justice, according to order, have had under consideration, the propriety of consolidating the offices of attorney for the county and circuit courts, in the several counties in this Commonwealth, and have come to the following resolution thereon, to wit:

Resolved, That it is inexpedient to consolidate said offices.

Which being twice read, was concurred in.

Mr. Underwood, from the same committee, made the following report:

The committee on courts of justice, to whom was referred the propriety of granting leave to introduce a bill to reduce the salaries of the circuit court Judges of this Commonwealth, have come to the following resolution thereon, to wit:

Resolved, That it is inexpedient to grant leave to introduce a bill to reduce said salaries.

It was then moved and seconded to lay the said resolution on the table for the present; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Spalding and Wilcoxen, were as follows, viz:

YEAS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Brown, Bruce, Chenowith, Cowan, Cunningham, Davis, Duke, Dunlap, Dyer, Farmer, Ford, Gaines, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Hutchison, James, Logan, Mayes, Morris, New, Owings, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Wilson, A. White and Yantis—43.

NAYS—Messrs James Allen, John J. Allin, Bainbridge, Barbee, Bruton, Carter, Clay, Coleman, Coombs, Cox, Daniel, Elliston, Evans, Fletcher, Fulton, Gibson, Hall, Harvey, Haskin, Lackey, Lee, Martin, M'Clanahan, M'Connell, Miller, M'Millan, Mullens, Napier, Nuttall, Owsley, Perrin, Porter, Prince, Samuel, Spalding, Stephens, Tarlton, Robert Taylor, Thomas, True, Underwood, Waddell, Wade, Walker, Ward, E. Watkins, Wilcoxen, Wingate, S. White and Woodson—50.

It was then moved and seconded, to amend said resolution to read as follows:

Resolved, That it is expedient to grant leave to introduce a bill to reduce said salaries to $1,000.

And the question being taken on agreeing to said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Spalding and Wilcoxen, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, John J. Allin, Barbee, Blackburn, Breck, Brown, Bruce, Bruton, Carter, Clay, Chenowith, Coleman, Coombs, Cowan, Cox, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gaines, Gibson, Gordon, Grundy, Hall, Hansford, Hardin, Harvey, Haskin, Hutchison, James, Lackey, Lee, Marshall, Martin, Maupin, M'Clanahan, M'Connell, Miller, M'Millan, Morris, Mullens, Napier, New, Nuttall, Owsley, Payne, Perrin, Porter, Prince, Reed, Samuel, Skyles, Slaughter, Spalding, Stephens, Street, Tarlton, Robert Taylor, Z. Taylor, Timberlake, Thomas, True, Turner, Underwood, Waddell, Wade, Walker, Ward, E. Watkins, Wilcoxen, Wilson, Wingate, A. White, S. White, Woodson and Yantis—84.

NAYS—Messrs. Bainbridge, Breckinridge, Cunningham, Green, Hanson, Logan, Mayes, Owings, Sterrett, Richard Taylor and Thomasson—11.

The said resolution as amended, was then concurred in.

Ordered, That said committee prepare and bring in a bill pursuant to said resolution.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Underwood, from the committee for courts of justice—

1. A bill to add a part of the county of Nicholas to the county of Harrison.

2. A bill to amend the law requiring clerks of courts to make out complete records in certain cases.

3. A bill for the benefit of Eliza H. Eachus.

4. A bill concerning the Town of Henderson.

5. A bill to continue in force the law providing for the appointment of commonwealth's attorneys.

By. Mr. New—6. A bill further regulating the sale of vacant lands west of the Tennessee River.

By Mr. Slaughter—7. A bill for the benefit of Jacob Renner.

Which bills were severally received and read the first time, the 1st laid on the table, and the 2nd, 3rd, 4th, 5th, 6th and 7th, ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the fourth and seventh bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Slaughter carry the said bills to the Senate and request their concurrence.

Ordered, That the public printers forthwith print 150 copies of the sixth bill, for the use of the members of this house.

Mr. Mayes, from the committee of religion, made the following report:

The committe of religion, have, pursuant to order, had under consideration sundry petitions to them referred, and have come to the following resolutions:

Resolved, That the petition of Nancy Hogan, praying a divorce from her husband, William Hogan, *be rejected.*

Resolved, That the petition of Melinda Lawrence, praying a divorce from her husband, David Lawrence, *be rejected.*

Resolved, That the petition of Mary Vanlandingham, praying a divorce from her husband, Daniel Vanlandingham, and that her name and the names of their children be changed from Vanlandingham to Buoy, *be rejected.*

Which being twice read was concurred in.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows:

Gentlemen of the Senate,
and of the House of Representatives,

Pursuant to the 12th section of an act of the General Assembly, entitled "an act for appropriating the vacant land in the State of Tennessee, between Walker's line and the latitude thirty-six degrees thirty minutes," approved December 28th, 1824, I did, on the 8th of January last, with the approbation of the Senate, commission Thomas J. Matthews, Esq. of Transylvania University, surveyor, to run and mark a line in said latitude, from the Tennessee River to the top of the Cumberland Mountain. Owing, however, to the failure of the Legislature to make any provision to meet the expense; to my declining, upon a deliberate consideration of my constitutional authority, to issue an order upon the Treasury, without a legal appropriation, and to the inability of Mr. Matthews to make advances from his own funds, he did, on the 28th of February, decline the appointment. After another unsuccessful attempt to obtain a surveyor in the person of Robert Alexander, Esq. I tendered the place to Col. William Steele, of Woodford county, who accepted it and has performed the duty.

On the 7th of April last, I addressed a letter to the Governor of Tennessee, upon the subject, to which he returned an answer, dated the 24th of the same month.

Col. Steele proceeded alone to make the survey, no surveyor appearing on the part of the State of Tennessee. He has made a report to me, enclosing a plat of the line as run by him, which is now on file in the office of the Secretary of State. Copies of the letters to and from the Governor of Tennessee, and of the report of Col. Steele, are transmitted herewith.

It remains for the General Assembly to make such appropriations as it may think just, to defray the expences of the survey, and compensate the surveyor and those engaged with him, for their services.

JOSEPH DESHA.

November 15, 1825.

STATE OF KENTUCKY,
Executive Department, April 7th, 1825.

SIR—Enclosed, I transmit to you an act of the Legislature of this State, at its last session, for appropriating the vacant land in the State of Tennessee, belonging to this State. Pursuant to the provisions of its last section, I have appointed Col. William Steele, of Woodford county, in this State, surveyor, to run and mark the line of latitude thirty-six degrees thirty minutes north, from the Tennessee River to the top of Cumberland Mountain. As this line is the southern limit of the territory subject to grants by Kentucky, it is the interest of the State of Tenessee, that it be correctly run. The Legislature have therefore authorised me to request of the State over which you preside, its concurrence and assistance in performing this work.

Should any measures be taken on the part of Tennessee, in concurrence with those of Kentucky, or a surveyor be appointed by her authorities to aid in running said line, in conjunction with Col. Steele, he can fix with him the time and manner of performing it.

Col. Steele will, on the part of this State, proceed, during the approaching season, to make the survey contemplated by his appointment, and has informed me that he will be in Clarksville, Tennessee, about the 20th day of next May.

I have the honor to be, &c.

JOSEPH DESHA.

His Excellency, the Governor of Tennessee.

EXECUTIVE OFFICE, TENNESSEE,
Murfreesboro', April 24th, 1825.

SIR:

I have the honor to acknowledge the receipt of your letter of the 7th inst. informing me that you had appointed Col. Steele, Surveyor on the part of Kentucky, to run and mark the line between your State and Tennessee, from the Tennessee river to the top of Cumberland mountain; and that he would be at Clarksville, ready to commence the work, about the 20th of May.

I have written to a gentleman this morning, tendering to him the appointment of Surveyor on the part of Tennessee. He will, I have no doubt, accept; but he may not be able to meet Col. Steele as soon as the time you have mentioned; in which event, permit me to request that the period of meeting be deferred until the first of June.

On my hearing from the person to whom I have written, I shall immediately notify you of the day on which he can be at Clarksville, and probably it may be the 20th of May.

I have the honor to be, respectfully,

Your obedient servant,

WILLIAM CARROLL.

His Excellency, Joseph Desha, Kentucky.

WOODFORD, Oct. 10th, 1825.

DEAR SIR:

Enclosed, is the plat and report of the survey made on the chartered line between the States of Kentucky and Tennessee. The Report will show for itself.

I made a loan from the Commonwealth's Bank, of 588 dollars; $581 95 have been paid out in the current expence of running and marking the line. It remains for you to have the necessary appropriations made for the payment of the services on said line.

As the Tennesseans failed in assisting, I was obliged to appoint a second Assistant Surveyor. My first assistant is Willis Blanton, and the second, Berry Searcy. I had two Chainmen and a Marker, to wit: Nelson Utterback and Isaac Bond, Chainmen, and David Moore, Marker. Isaac Bond acted for a considerable time as Quartermaster, and after the appointment of B. Searcy to Assistant Surveyor, I had three pack-horses and a pack-horse driver.

I am, dear sir, your most ob't. servant,

WM. STEELE.

J. Desha, Governor of Kentucky.

Ordered, That the said message be referred to the committee of claims.

Mr. Barbee, from the select committee to whom was referred a bill to allow additional justices of the peace and constables to sundry counties, reported the same with an amendment; which being twice read was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time to-morrow.

Mr. Walker, from the select committee to whom was referred a bill for the benefit of the widow and heirs of Richard Lewis, dec'd. reported the same without amendment.

The question was then taken on engrossing the said bill and reading it a third time, which was decided in the negative, and so the said bill was rejected.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate concur in the amendments proposed by this house, to a bill which originated in that, entitled "an act authorising the insertion of certain advertisements in the paper published in Lexington, entitled the Kentucky Whig;" and have passed a bill entitled, "an act to amend an act entitled an act for the benefit of the widow and heirs of William Pickett, dec'd. and for the executors and devisees of Azariah Davis, deceased," approved February 4th, 1817, in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Turner moved the following resolution:

Resolved, That the committee of courts of justice be instructed to enquire into the propriety of amending the law in relation to delivery bonds, so as to authorise executions to issue on said bonds, without notice and judgment thereon in court, in cases where bonds are hereafter executed.

Also, to enquire into the propriety of repealing the act of Assembly requiring property to sell for three fourths of its value. And that said committee have leave to report by bill or otherwise.

Which being twice read, was adopted.

The House took up the resolution laid on the table on the 12th instant, by Mr. Hanson, for appointing a joint committee to examine the Bank of the Commonwealth, and to cancel, by burning, certain notes of said Bank; which being twice read, was concurred in as follows:

Resolved by the General Assembly of the Commonwealth of Kentucky, That a joint committee of four from the Senate and eight from the House of Representatives, be appointed to examine the Commonwealth's Bank, and count the notes on hand, and proceed immediately to cancel, by burning, the amount which may be found in said Bank, except so much as the appropriations heretofore made and not complied with, if any, and contingent purposes of said Bank, if any such contingency may be found expedient, and that the said committee report hereon as speedily as possible.

Ordered, That Mr. Hanson carry the said resolution to the Senate and request their concurrence.

On motion,

Ordered, That the committee of the whole house be discharged from the further consideration of the resolutions laid on the table on the instant, by Mr. Breckinridge; and that the same be laid on the table.

Mr. Morris moved the following resolution:

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of allowing the proprietors of land sold under execution, in all cases where it does not sell for one half of its value, to redeem; and that the committee have leave to report by bill or otherwise.

Which being twice read, was adopted.

Ordered, That an engrossed bill entitled an act to alter the mode of taking in lists of taxable property, be recommitted to a select committee of Messrs. Maupin, Breck, Hall and Woodson.

Mr. Underwood moved the following resolution:

Resolved, That the committee of courts of justice be directed to enquire into the expediency of repealing or modifying the acts relative to champerty and maintenance, passed at the two last sessions of the General Assembly of the Commonwealth of Kentucky,

and that they further enquire into the expediency of remitting all forfeitures to the Commonwealth, under said acts.

Which being twice read, was adopted.

Mr. Lee moved for leave to bring in a bill to alter the mode of summoning petit jurors; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

Mr. Mayes moved the following resolution:

Resolved, That the committee of courts of justice be directed to enquire into the expediency of forming a new judicial district, to include the counties west of the Tennessee river.

Which being twice read, was adopted.

Leave was given to bring in the following bills:

On the motion of Mr. Hardin—1. A bill for the benefit of Isaac C. Chenowith and others.

On the motion of Mr. Lackey—2. A bill for the benefit of Elijah Adkins.

On the motion of Mr. Ward—3. A bill to organize the Enterprizing Company.

On the motion of Mr. Logan—4. A bill to revive and continue in force, an act entitled, "an act further to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes."

On the motion of Mr. Wilson—5. A bill to amend the law to give the commissioners of the Farmers and Mechanics' Bank of Logan, longer time to wind up that institution.

On the motion of Mr. Underwood—6. A bill to amend the laws concerning the town of Bowlinggreen.

On the motion of Mr. M'Millan—7. A bill for the appropriation of the lands which have reverted to the Commonwealth for the non-payment of the State price; 8. a bill for the appointment of Trustees in the town of Pikeville, in the county of Monroe.

On the motion of Mr. James—9. A bill for the benefit of the Soldier Creek Baptist Church, in the county of Calloway.

And on the motion of Mr. New—10. A bill to reduce the salary of the Secretary of State.

Messrs. Hardin, James Allen, Grundy and Martin were appointed a committee to prepare and bring in the first; Messrs. Lackey, M'Connell and Lee, the second; Messrs. Ward, Tarlton and Blackburn, the third; Messrs. Logan, Reed, Ford, Wilson and Underwood, the fourth; Messrs. Wilson, Underwood and Mayes, the fifth; Messrs. Underwood, Skyles and M'Millan, the sixth; Messrs. M'Millan, Morris, Underwood, Walker and Hall, the seventh; Messrs. M'Millan, Barbee and Hall, the eighth; Messrs. James, Prince, E. Watkins and Porter, the ninth; and Messrs. New, Ward and Underwood, the tenth.

And then the house adjourned.

WEDNESDAY, NOVEMBER 16, 1825.

Mr. John J. Allin, from the joint committee of enrolments, reported that the committee had examined enrolled bills entitled "an act for the benefit of the clerks of Hopkins and Oldham circuit courts," and "an act to authorise the insertion of advertisements in certain newspapers;" and had found the same truly enrolled.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. John J. Allin inform the Senate thereof.

1. Mr. Mullens presented the petition of sundry citizens of Pendleton county, praying that a law may pass to establish a road to lead from Cynthiana by the mouth of Raven creek, to Williamstown in Grant county; and that provision may be made to clear out the same.

2. Mr. Lackey presented the petition of William Tackett, Jesse Hamilton and Meredith Collins, praying that a law may pass to authorize them to appropriate two thousand acres of the vacant lands of the Commonwealth, adjoining to the lands whereon they are boring for salt water.

3. Mr. Payne presented the petition of Richard T. Jones and Jane, his wife, representing their non-age to convey a certain tract of land devised to them; and praying that a law may pass to authorize and empower them to do so.

4. Mr. Hardin presented the petition of the justices of the county court of Spencer, praying that a law may pass to establish the line of said county between the counties of Spencer and Shelby, as originally run by the commissioners appointed on the part of said counties, or to provide for said line to be run and marked by some disinterested person.

5. Also, the petition of the adult and infant heirs of John Thomas, deceased, (the infants by their guardians,) praying that a law may pass to authorize a sale of certain lands, inherited by descent from their said ancestor, John Thomas.

Which petitions were severally received, read and referred; the 1st, 2d and 4th to the committee of propositions and grievances; the 3d to a select committee of Messrs. Payne, Breckinridge and True; and the 5th to the committee for courts of justice.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under consideration several petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of the trustees and citizens of Mountsterling, praying that a law may pass extending the limits

of their town so as to include a well they have purchased, *is reasonable.*

Resolved, That the petition of Jesse Rader, praying that a law may pass authorizing him to peddle without license, and to direct the Treasurer to loan him fifty dollars, *be rejected.*

Which being twice read, was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to the first resolution.

Mr. Ward, from the committee of claims, made the following report, viz.

The committee of claims have, according to order, had under consideration the petition of Richard Epperson, and have come to the following resolution:

Resolved, That said petition *is reasonable*, and that the sum of fifty dollars be allowed said Epperson for his services.

Which being twice read, was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to said resolution.

A message from the Senate, by Mr. Denny:

Mr. Speaker—A bill having passed the Legislature, at its last session, entitled "an act authorizing the collection of certain moneys due to the first Presbyterian Church in Louisville," has been returned to the Senate, where it originated, with the Governor's objections, and has been passed by the Senate, the Governor's objections notwithstanding; and I am instructed to request the concurrence of this house in the passage of said bill, the objections of the Governor thereto notwithstanding.

And then he withdrew.

Mr. Marshall, from the select committee to whom was referred a bill to repeal an act entitled "an act to amend the act to regulate endorsements on executions," approved January 5th, 1824, reported the same with an amendment.

The said bill was then read as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the first section of "an act to amend the act to regulate endorsements on executions," approved January 5th, 1824, be, and the same is hereby repealed.

The amendment proposed by the committee was then read as follows:

Add to the bill the following words: "*In relation to all contracts made after the passage of this act.*"

It was then moved and seconded to postpone the further consideration of said bill and amendment, until the first day of June next; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Nuttall and Marshall, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Bruton, Carter, Clay, Chenowith, Cowan, Cox, Cunningham, Daniel, Dunlap, Dyer, Elliston, Evans, Ford, Fulton, Gaines, Gordon, Grundy, Hall, Hansford, Hanson, Harvey, Haskin, Hutchison, James, Lackey, Martin, Maupin, Mayes, M'Clanahan, Miller, M'Millan, Napier, New, Owsley, Payne, Prince, Reed, Skyles, Spalding, Sterrett, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, True, Turner, Underwood, Wade, E. Watkins, Wilson, Wingate, A. White, S. White, Woodson and Yantis—64.

NAYS—Messrs. Brown, Bruce, Coleman, Coombs, Crittenden, Davis, Farmer, Fletcher, Gibson, Green, Hardin, Lee, Logan, Marshall, M'Connell, Morris, Mullens, Nuttall, Owings, Perrin, Porter, Samuel, Slaughter, Stephens, Timberlake, Thomas, Thomasson, Waddell, Walker, Ward and Wilcoxen—31.

Mr. Maupin, from the select committee to whom was referred a bill to alter the mode of taking in lists of taxable property, reported the same with amendments.

Ordered, That the said bill with the amendments, be re-committed to a select committee of Messrs. Maupin, Haskin, Chenowith, Waddell and Hanson.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Ward—1. A bill to organize the Enterprizing Company.

By Mr. Lackey—2. A bill for the benefit of Elijah Adkins.

And by Mr. Underwood—3. A bill concerning the town of Bowlinggreen.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Underwood carry the said bill to the Senate, and request their concurrence.

The house took up the resolutions laid on the table on the 10th instant, by Mr. Breckinridge; which were twice read, and amended to read as follows:

Whereas, the Governor of the State has communicated to this house, by a message in writing, that since the last session of the General Assembly, there have arisen new causes of alarm and agitation, which demand their immediate and serious attention; and inasmuch as no *new* causes of alarm and agitation, known to this house, have arisen *since* the last session of the Legislature:

Therefore, to enable the Representatives of the people to act efficiently in removing the dangers which are declared to threaten our peace and sovereignty, it is essential to obtain information more ample and minute than they at present possess.

1. *Be it resolved by the House of Representatives of the Commonwealth of Kentucky*, That the Governor be respectfully requested to communicate to this house, the particular causes of alarm and agitation, which have arisen since the last session of the Legislature.

2. *Be it resolved*, That the Governor be requested to inform this house, whether the Branches of the Bank of the United States, located in this State, have purchased any real estate within this State, other than that which they were compelled to receive in discharge of debts previously due those institutions; and if they, or either of them, have, to inform this house in what part of the State the property so purchased is situated, and from whom purchased, and whether the said Branches, or either of them, have failed to pay taxes upon any real estate they possess in this State.

3. *Be it further resolved*, That the Governor be requested to communicate to this house, any evidence he may possess, to establish the charge contained in his late message, that the Branch Banks of the United States, located in this State, have for a series of years carried on a systematic attack upon the legislative power of the State, with a view to render themselves independent of its authority, and to state the cases in which those Branches, or their friends, interposed to procure the vacation of the statutes of the State, upon the ground of their unconstitutionality.

4. *Resolved*, That the Governor be requested to communicate to this house, the evidence in his possession, proving that the Supreme Court of the United States have declared, or in any case decided, that the Federal Courts had a right to make execution laws for the regulation of their own proceedings, without asking the sanction of the people's representatives, either in the State or general government.

5. *Be it resolved*, That the Governor be requested to communicate to this house, any evidence he may possess, to establish the charge contained in his message, that the Bank of the United States had controlled many of our citizens, as their tenants, or any one of them, and the name of the individual or individuals so controlled in the exercise of their right of suffrage; and also to inform this house, as accurately as practicable, of the number of the officers of the Branches of that institution, located in this State, as well as the number and names of their tenantry and dependants, and the evidence of their being dependants.

6. *Be it further resolved*, That the Governor be requested to inform this house, of the mode deemed most advisable, in the opinion of the Executive, to refuse obedience to the decisions and mandates of the Supreme Court of the United States, considered erroneous and unconstitutional, with reference to the particular decisions and mandates alluded to, and whether, in the opinion of the Executive, it may be advisable to call forth the physical power of the State, to resist the execution of the decisions of the Court,

or in what manner the mandates of said Court should be met by disobedience.

7. *Be it further resolved*, That the Governor be requested to communicate to this house, whether he has received any assurances from the head of the Judiciary, or those claiming to be at the head of the Judiciary, that they will resist the mandates of the Supreme Court of the United States, and thereby create a tower of defence against encroachment, in cases taken from the head of our Judiciary to the Supreme Court, in pursuance of the Constitution of the United States, and laws of Congress made in pursuance thereof.

8. *Be it further resolved*, That the Governor be further requested to communicate to this house, any information which he may have in his possession, that the constitutionality of the two years' replevin law, pronounced unconstitutional and void by the Court of Appeals, was never doubted until the interest of the United States' Bank made it necessary that new and more rigid principles should be incorporated into our system of government; and further, to inform this house, whether the Court of Appeals has adjudicated upon any case between the Bank of the United States and a citizen of Kentucky, in which attempts were made to vacate our laws or acts of Assembly.

9. *Be it further resolved*, That the Governor be requested to inform this house, whether he intended by his message to the Legislature, to give information that he had determined to prevent, by physical force, the Judges of the Appellate Court, (those Judges whom the people and their immediate representatives have declared to be the only Judges of the Court of Appeals,) from proceeding in the discharge of their official duties.

A division of the question being called for, the question was first put upon adopting the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th and 8th resolutions, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Nuttall and M'Connell, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Carter, Chenowith, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Fulton, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Lackey, Logan, Martin, Maupin, Mayes, M'Connell, M'Millan, Morris, Mullens, Napier, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Stephens, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Underwood, Waddell, Walker, Wilson, A. White, Woodson and Yantis—67

NAYS—Messrs. John J. Allin, Barbee, Clay, Coleman, Coombs, Daniel, Elliston, Fletcher, Hall, Haskin, Lee, M'Clanahan, Nuttall, Perrin, Porter, Prince, Samuel, Spalding, Thomas, Thomasson, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—26.

The question was then put on adopting the ninth resolution, which was decided in the negative.

The yeas and nays being required thereon, by Messrs. Wilcoxen and M'Connell, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Breck, Breckinridge, Brown, Cox, Cunningham, Davis, Duke, Ford, Grundy, Hanson, Hutchison, Logan, Marshall, M'Connell, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Z. Taylor, True, Turner, and Yantis—28.

NAYS—Messrs John J. Allin, Barbee, Blackburn, Bruce, Bruton, Carter, Clay, Chenowith, Coleman, Coombs, Cowan, Crittenden, Daniel, Dunlap, Dyer, Ellis-ton, Evans, Farmer, Fletcher, Fulton, Gaines, Gibson, Gordon, Green, Hall, Hansford, Hardin, Harvey, Haskin, James, Lackey, Lee, Martin, Maupin, Mayes, M'Clanahan, M'Millan, Morris, Mullens, Napier, New, Nuttall, Perrin, Porter, Prince, Samuel, Spalding, Stephens, Street, Tarlton, Richard Taylor, Robert Taylor, Timberlake, Thomas, Thomasson, Underwood, Waddell, Wade, Walk-er, Ward, E. Watkins, Wilcoxen, Wilson, Wingate, A. White, S. White and Woodson—67.

And then the house adjourned.

THURSDAY, NOVEMBER 17, 1825.

Mr. Owsley presented the petition of the heirs of Samuel Elli-ott, deceased, praying that a law may pass to authorize the Regis-ter to issue to them a patent for a tract of land purchased by the said Samuel Elliott of Samuel Craig, the assignment of the certi-ficate for which, has been lost or mislaid.

And Mr. Walker presented the petition of Nancy Alderson, praying a divorce from her husband, William H. Alderson.

Which petitions were severally received, read and referred; the first to the committee for courts of justice, and the second to the committee of religion.

Mr. Green, from the committee for courts of justice, made the folowing report:

Resolved, That the petition of the infant children of Walter Har-lowe, by their guardian, *is reasonable*.

Which being twice read, was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Hardin, from the committee of ways and means, made the following reports:

The committee of ways and means have had under considera-tion the debts due by the Commonwealth of Kentucky, and res-pectfully report thereupon:

That by the laws of this Commonwealth now in force, the offi-cers of the government and its creditors are bound to take Com-monwealth's paper at its nominal amount; or, to make the idea more easily comprehended, a dollar in paper is to be received as if the same was a dollar in gold or silver. The policy of this law grew out of the peculiar state of the country. It is with senti-ments of the highest personal gratification, that the committee can felicitate this house, and the people of this Commonwealth, upon

the rapid appreciation of the Commonwealth's paper. This sudden change in the appreciation of the paper, and the rapid progress the managers of the Commonwealth's Bank are making in winding up its concerns, have induced the wealthy officers and creditors of the Commonwealth not to call for the amount due them at the Treasury, but to wait until they can turn their debts and demands into gold and silver. This course of conduct makes the law operate unequally upon the rich and poor. The officers and creditors of government who are poor, cannot wait, but must call and get their money as the same falls due. Besides, it not only increases the salaries of those who do wait, beyond what the government intended the same should be, but it throws upon the government, at some distant day, when the paper is all destroyed, a cash debt greatly exceeding in amount the current expences of the year. To remedy this iniquitous practice and growing evil, the Committee report a bill.

The committee of ways and means have had under consideration the salaries of the following officers of government:

Circuit Judges at $1,200 each, which amount to	$19,200
Commonwealth's Attorneys at $400 each, which amount to	6,400
Auditor,	2,000
Register's salary and perquisites,	2,000
Attorney General,	400
Secretary of State,	1,000
Total,	$31,000

The committee propose to reduce the salaries of said officers to the following sums:

Circuit Judges to $1000 each, making	$16,000
Attorneys for Commonwealth to $300 each, making	4,800
Auditor, to	1,500
Register, to	1,200
Secretary of State, to	750
Attorney General, to	300
	$23,550

Should the proposed reductions take place, the amount retrenched will be $7,450

To carry into effect the opinion of the Committee, they report a bill.

The committee of ways and means have had the situation and expenditures of the Bank of the Commonwealth under consideration, and respectfully report thereupon: That the expences of each Branch will average $2,000, making the total expences of the 12 Branches amount to 24,000

The expences of the principal or mother Bank consist of the following items:

President's salary,	1,500
Cashier's salary,	1,200
First Clerk,	1,200
Second Clerk,	800
House rent and miscellaneous expences,	600
Total expences of the whole institution,	$29,300

It is the opinion of the Committee, that the interest of the Bank will not be endangered by calling in its Branches; but, on the contrary, to judge from the experience we have had in relation to the Bank of Kentucky, the interest of the institution will be greatly promoted, and the safety of its funds better secured, by the adoption of such a measure. Moreover, the present deranged state of the Treasury imperiously demands it.

It is believed, that four Agents will be sufficient to attend three times a year in each county, to receive the discounts and renewal of the notes; and that Agents every way qualified, can be procured for $1,000 each per annum. The adoption of this measure will save, in the expences of the Branches, $20,000.

When the Bank was chartered, and the salaries of the officers regulated for the first twelve months, the President's duties were arduous, and claimed nearly all his time; now, the place has almost degenerated into a sinecure. It is the opinion of the committee, that $1,000 per annum to that officer, will be an ample compensation; and that the salaries of the Cashier and first Clerk can be reduced to $1,000 each, per annum. The reduction, therefore, in the President's, Cashier's and first Clerk's salaries, will amount, together, to the sum of $900.

The committee are of opinion, that, should the Branches be called in, the business in the principal or mother Bank will increase, so much as to render it necessary to employ an additional Clerk, at a salary of $800; which will reduce the amount retrenched in the President's, Cashier's and first Clerk's salaries, to $100.

The total amount of retrenchment in the Bank of the Commonwealth, will be $20,100.

To carry into effect and operation the views of the committee, they report a bill.

Ordered, That the said reports be committed to a committee of the whole house on the state of the Commonwealth, for the 22d instant; and that the public printers forthwith print 150 copies of said reports, for the use of the members of this house.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Ward, from the committee of claims—1. A bill for the benefit of Richard Apperson.

By Mr. Blackburn, from the committee of propositions and grievances—2. A bill to establish the Cumberland Hospital.

3. A bill for the benefit of George Owings.

By Mr. Hardin, from the committee of ways and means—4. A bill further to regulate the salaries and debts due by this Commonwealth.

5. A bill further to regulate the salaries of some of the officers of government.

6. A bill further to regulate the Bank of the Commonwealth.

By Mr. Green, from the committee for courts of justice—7. A bill for the benefit of Henry Harlowe and others.

By Mr. Payne—8. A bill for the benefit of Richard T. Jones and wife.

By Mr. Brown—9. A bill for the benefit of John Williamson, administrator of Isaac Conclude, a free man of colour, and to repeal in part, an act passed the 12th day of January, 1825, entitled "an act for the benefit of Zachary Conclude."

By Mr. Sterrett—10. A bill for the benefit of the widow and heirs of Thomas Blincoe, deceased.

By Mr. Hardin—11. A bill for the benefit of Isaac C. Chenowith and others.

And by Mr. Haskin—12. A bill for the benefit of the Mercer county court.

Which bills were severally received and read the first time, and ordered to be read a second time.

Ordered, That the public printers forthwith print 150 copies of the 4th, 5th and 6th bills, for the use of the members of this house.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 4th, 5th, 6th, 9th and 12th bills having been dispensed with, the 1st and 12th were ordered to be engrossed and read a third time; the 4th, 5th and 6th, were referred to a committee of the whole house for the 22d instant; and the 9th to the committee for courts of justice.

And thereupon the rule of the house, constitutional provision and third reading of the first and twelfth bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Turner carry the said bills to the Senate and request their concurrence.

Mr. Wade, from the select committee to whom was referred a bill to compel free persons of colour to work on roads and highways, reported the same with an amendment; which being twice read was concurred in.

Ordered, That the said bill as amended, be engrossed and read a third time to-morrow.

Mr. Porter, from the select committee appointed for that purpose, reported a bill for the benefit of Joshua Talbot, which was received and read the first time; and the question being taken on

reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz.

Gentlemen of the Senate,

and of the House of Representatives:

I transmit herewith, for your consideration, certain resolutions of the Legislatures of the States of Connecticut, Delaware, New-Jersey, Indiana and Mississippi, concerning the amendment to the constitution of the United States, proposed by the Legislature of the State of Georgia, on the 22d December, 1823.

JOSEPH DESHA.

November, 1825.

CONNECTICUT.

At a General Assembly of the State of Connecticut, holden at Hartford, in said State, on the first Wednesday in May, in the year of our Lord one thousand eight hundred and twenty-five:

Resolved by this Assembly, That the amendment to the constitution of the United States, proposed by a resolution of the Legislature of the State of Georgia, passed December the 22d, 1823, providing "that no part of the constitution of the United States ought to be construed, or shall be construed, to authorize the importation or ingress of any person of colour, into any one of the United States, contrary to the laws of such State," be and the same is hereby disapproved by the Legislature of this State.

Resolved, That his Excellency, the Governor, be requested to transmit a copy of the foregoing resolution to the Executive of each of the United States, to be laid before their respective Legislatures.

A true copy of record, examined and certified under the seal of the State, by

THOMAS DAY, *Sec'y.*

DELAWARE.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the amendment to the constitution of the United States, as proposed in the resolution from the State of Georgia, passed the twenty-second December, eighteen hundred and twenty-three, be, and the same is hereby disapproved by this General Assembly.

Resolved further, That the Governor of this State be, and he is hereby requested to communicate these resolutions to the Executive of the State of Georgia, and the Executives of the several

States, with a request that the same may be submitted to their respective Legislatures.

JOHN ROBINSON,
Speaker pro tem. of the House of Representatives.
JESSE GREENE,
Speaker of the Senate.

Passed at Dover, January 8th, 1825.

THE STATE OF NEW-JERSEY.

Resolved by the Council and General Assembly of this State, That the amendment to the constitution of the United States, proposed by a resolution of the Legislature of the State of Georgia, passed December the twenty-second, one thousand eight hundred and twenty-three, providing "that no part of the constitution of the United States ought to be construed, or shall be construed, to authorise the importation or ingress of any person of colour into any one of the United States, contrary to the laws of such State," be, and the same is hereby disapproved of by the Legislature of this State.

Resolved, That his Excellency, the Governor, be requested to transmit a copy of the foregoing resolution to the Executive of each of the United States, to be laid before their respective Legislatures.

Council Chamber, December 17th, 1824.

These resolutions having been three times read in the Council,

Resolved, That the same do pass.

By order of the Council,

P. I. STRYKER, *Vice-President.*

House of Assembly, December 15th, 1824.

These resolutions having been read in the House,

Resolved, That the same do pass.

By order of the House,

DAVID JOHNSTON, *Speaker.*

INDIANA.

A joint Resolution, disapproving the amendment proposed by the State of Georgia to the constitution of the United States, on the subject of the ingress of people of colour, into the several States of the Union.

Resolved by the General Assembly of the State of Indiana, That it is inexpedient to make the amendment to the constitution of the United States, as proposed in the resolution of the General Assembly of the State of Georgia, adopted on the twenty-second day of December, eighteen hundred and twenty-three, and that this General Assembly do hereby disapprove of the same.

Resolved, That his Excellency, the Governor of this State, be, and he is hereby requested to transmit a copy of this resolution to

each of the Executives of the several States in the Union, and to each of our Senators and Representatives in Congress.

S. C. STEEVENS,
Speaker of the House of Representatives.
JAMES B. RAY,
President of the Senate pro tempore.

Approved, February 3d, 1825.

WILLIAM HENDRICKS.

MISSISSIPPI.

Resolved by the Senate and House of Representatives of the State of Mississippi, in General Assembly convened, That the Legislature of the State of Mississippi concur in the amendment to the constitution of the United States, proposed by the Legislature of the State of Georgia, which is in the following words, to wit: "That no part of the constitution of the United States ought to be construed, or shall be construed, to authorise the importation or ingress of any person of colour, into any one of the United States, contrary to the laws of said State."

Resolved, That his Excellency, the Governor, be, and he is hereby requested to communicate this resolution to the Governors of the different States, with a request that the same may be submitted to their respective Legislatures, and that he do also communicate the same to our Senators and Representatives in Congress.

COWLES MEAD,
Speaker of the House of Representatives.
GERARD C. BRANDON,
Lieut. Governor and President of the Senate.

Approved, Janury 28th, 1825.

WALTER LEAKE.

Ordered, That the said message, with the accompanying document, be beferred to a select committee of Messrs. New, Hardin, Mayes, Marshall, Morris, Woodson, Blackburn and Logan.

The message of the Governor, communicated to this house on yesterday, was taken up and read as follows:

Gentlemen of the Senate,
and of the House of Representatives:

The public arms received by this State from the United States, form, in value and use, an important part of its property. They were received from the general government, under the provisions of an act of Congress of the 23d of April, 1808, appropriating the annual sum of two hundred thousand dollars, for the purchase and manufacture of arms and military equipments, and directing them to be distributed to the several States, in proportion respectively to the effective strength of their militia. Kentucky has, therefore,

been entitled, since the 23d of April, 1808, to her quota of all the arms that have been procured under the act of that date.

In order to ascertain, if possible, what part of her quota, this State has actually received from the general government, I did, on the 4th instant, direct the quartermaster-general to make out and present to me, a report, "showing the whole number of every description of ordnance, arms and accoutrements, that have been received;" and to ascertain their present state and condition, desired him further to make known, "the number delivered out, to whom, and at what time; the number and description destroyed in the late conflagration of the State-house; and finally, the number, description and condition of those at present in the public arsenal at this place." In pursuance of this order, he has made a report, giving the information desired, as nearly as the state of the records of his office would permit. Copies of the report and of the accompanying statements, are transmitted herewith.

No record in the executive department, or in the office of the quartermaster-general, shows distinctly the number of arms which, under the above mentioned act of Congress, became due to this State, for the period between the years 1808 and 1816. The statements, however, submitted to me, show the number actually obtained during that period. But from the year 1816, to the year 1822, inclusive, there are documents forwarded by the proper officer of the general government, which show both the quota of Kentucky, of the arms procured in that time, and the number actually forwarded to her.

The quota of this State, during the period last mentioned, amounts to 5,724 muskets, equal in value, at the rate of $14 each, (the price fixed on them by the United States,) to $80,136. Of this number of muskets, it appears from the account between this State and the United States, which is transmitted herewith, that there was received, up to the 1st of January, 1823, the value of 3,997 muskets, leaving a balance due at that time, of 1,727, of the value of $24,178, which the executive was informed might be drawn either in muskets or in other arms.

On the 3d of December, 1824, I sent on a requisition to the commandant of the United States' Arsenal at Pittsburg, for the aforesaid balance, in the following species of arms and accoutrements, to wit: 300 sets of accoutrements for muskets; 128 sabres for cavalry; 128 pistols (64 pairs); 128 sabre belts and holsters; 128 rifles and accoutrements; the residue in muskets and accoutrements.

These, it will appear from the report of the quartermaster-general, were forwarded accordingly, and have been received at Louisville.

As no communication upon the subject has been received from the ordnance office at Washington, I am unable to say what num-

ber of arms Kentucky has become entitled to, since the year 1822. It is presumed, however, that it will be communicated, and the arms forwarded in proper time.

It has been usual, upon the application of commandants of militia companies, to issue to them complements of arms, upon their giving bond with good security, in a penalty sufficient to cover their value. The report of the quartermaster-general, will show what number have been thus distributed, and to whom, as also the number and condition of those now remaining in the possession of the State government.

For the purpose of ascertaining the condition of those arms which have been delivered out, and the solvency of the drawers and their securities, and with the intention, if I found it expedient, of withdrawing them into the arsenal, I caused a circular to be addressed to the commandants of the various regiments that have received any of them, desiring such information as to their present state and condition, as might be worthy of communication. The returns to this circular, have not yet been received; when they are, such measures will be taken as may be necessary to secure the public interest in this respect.

Since this message was contemplated, I have received resolutions from the House of Representatives, desiring information upon the subjects embraced in it. These resolutions I have maturely considered, as well as the matters to which they relate, with a view of giving to the representatives of the people, all the information I possess in relation to their object. In answer to them, this communication, which comprises the sum of my present information relative to the public arms, is respectfully submitted.

JOSEPH DESHA.

November 16, 1825.

QUARTERMASTER GENERAL'S OFFICE,
Frankfort, 14th November, 1825.

SIR—It was my wish to have furnished your Excellency with the information required in yours of the 4th instant, in relation to the public arms, &c. at an earlier period; but such has been the loose and irregular manner in which my predecessors have managed the office, that it has produced considerable labor and difficulty to me, in arranging and putting the papers, &c. in proper form, to give the desired information.

Enclosed you will find statements marked A and B. Statement A shows the situation of the arsenal, when I entered upon the duties of the office, and the manner in which it has been conducted by me up to this date. Statement marked B. makes a full exhibit of the situation of the arsenal, from its establishment up to this date. In making out this last statement, I have been compelled, in many instances, to resort to the bonds filed in the Secretary's office,

finding no order from the Governor upon the records of this office; and hence I have inferred, that the quartermasters who have preceded me, were in the habit of delivering the arms upon the verbal order of the Executive. From the latter statement you will perceive, that the number of muskets and accoutrements appears to exceed the quantity of the same which have been received by the State. This difference I can account for in no other way, but by supposing that some of the bonds lodged in the Secretary's office, are intended as substitutes for some others on file, or that the quartermasters have made some error in entering the same. I also find, arms have been distributed by the quartermaster, or by the Executive who preceded you, without having taken the necessary bonds, viz. To William Preston, of Louisville, (since deceased,) one six pound iron piece; John M'Calla, one six pound caisson; William O. Butler, of Port-William, forty stand of muskets and accoutrements; William Hobson, fifty ditto; Samuel J. M'Dowell, eighty ditto; and to H. Marshall, one musket, for the return of which the then quartermaster took his bond. I find, from the records of this office, that previous to its establishment, in the year 1812, Major Elijah Craig, of Gallatin county, drew from the arsenal at Newport, by order of Governor Shelby, five hundred stand of muskets and accoutrements, which were put into the hands of the militia of Gallatin and Boone counties, for the protection of the inhabitants of their frontier, and which arms were part of the State's quota, allowed by the United States. Only 275 muskets and bayonets, 167 cartridge boxes and 161 bayonet scabbards, were returned, and those delivered to J. Bernard, at Port-William, as will be seen by the statements.

Assistant deputy quartermaster-general, Thomas P. Dudley, under an order from the Governor, drew from the arsenal in this place, of these arms, in the year 1814, for the purpose of reinforcing General A. Jackson, 195 muskets, 116 bayonet scabbards and belts, and 122 cartridge boxes and belts; which arms, he delivered over to Major E. Humphreys, United State's officer of ordnance at New-Orleans. This State, I should suppose, would be entitled to a like number, and they could be had, I have no doubt, upon application. Should the statements with which I furnish you, not prove satisfactory, upon being called on, I will try and make them so.

Respectfully, yours,

EDMUND H. TAYLOR,

Quartermaster-General, Ky. Militia.

His Excellency, JOSEPH DESHA.

[To face page 100.]

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te of reception.		Cannon.	INFANTRY ARMS. Muskets and bayonets.	Cartridge Boxes.	Cartridge box belts.	Bayonet Scabbards	Bayonet Belts.	Rifles.	CAVALRY ARMS. Sabres.	Pistols by Pairs.
1822 tember 9	Found in th								38	38
	ing upon t		30							
	sixty-nine		50	50	5					
	muskets		60	60		60	60			
	good orde									
	Two boxes		60							
	order, con		60							
	222 Cartri									
	belts 217.		60							
	211 Bayone		60							
	251 Bayone								64	32
	One four po		60	50	50	50	50			
	riage, co		40							
1823	Received o		60	60	60	60	60			
ruary 22	late of Fr									
l 12	Ditto,		60							
ber 4	Ditto,							64		
1825	Ditto,									
1823	Received o	1	1,070	1,380	1,380	1,380	1,380	64	64	32
ember 29	bad order		105	42						4
ber	Received of									
1825	Received fr		862	70		151	191		8	5
ust	of State's									
		1	2,637	1,712	1,495	1,701	1,741	128	174	111

Sabres.	Pairs of Pistols.
102	70
8	5
64	36
174	111

D H. TAYLOR, *Q. M. G. K. M.*

(DR.) *Edmund H. Taylor, Quartermaster-General, in account with the State of Kentucky.* (CR.)

Date of reception.		INFANTRY ARMS. Cannon.	Muskets and bayonets.	Cartridge Boxes.	Cartridge Box belts.	Bayonet scabbards.	Bayonet Belts.	Rifles.	CAVALRY ARMS. Sabres	Pistols by pairs
1822 September 9	Found in the arsenal upon entering upon the duties of the office, sixty-nine boxes, containing 20 muskets and bayonets each, in good order.		1,380							
	Two boxes of old muskets, in bad order, containing 7 and 15.		22							
	222 Cartridge boxes, without belts 217.			222	5					
	211 Bayonet scabbards.					211				
	251 Bayonet belts.						251			
	One four pound cannon and carriage, complete.	1								
1823 February 22	Received of Col. Peter Dudley, late of Frankfort troop.								29	29
April 12	Ditto, Ditto,								8	8
October 4	Ditto, Ditto,								9	6
1825	Ditto, Ditto,									4
1823 September 29	Received of James Shannon, in bad order.		45							
October	Received of Capt. Jno. Woods.		50	50	50	50	50			
1825 August	Received from Louisville, balance of State's quota.		1,140	1,440	1,440	1,440	1440	128	128	64
		1	2,637	1,712	1,495	1,701	1741	128	174	111

Date of delivery.			Cannon.	Muskets and bayonets.	Cartridge Boxes.	Cartridge box belts.	Bayonet Scabbards	Bayonet Belts.	Rifles.	Sabres.	Pistols by Pairs.
1823 April 12	Delivered to Capt. A. Ward.									38	38
June 23	Ditto	C. S. Bibb.		30							
Sept. 22	Ditto	Thomas P. Taul.		50	50	5					
" 24	Ditto	E. G. Pollard.		60	60		60	60			
1824 October 9	Ditto	D. C. Cosby.		60							
Dec. 9	Ditto	W. M. Garnett.		60							
1825 April 23	Ditto	E. B. Bibb.		60							
June 3	Ditto	T. P. Finnell.		60							
May	Ditto	R. Breckinridge.								64	32
June 30	Ditto	John Dedman.		60	50	50	50	50			
" 8	Ditto	T. G. Tupman.		40							
August	Ditto	James Kelly.		60	60	60	60	60			
	Ditto	at Louisville, for Capt. Elliott.		60							
Sept. 16	Ditto	Capt. Swindler.							64		
Nov. 5	In arsenal at this place in good order.		1	1,070	1,380	1,380	1,380	1,380	64	64	32
	Ditto	in bad condition.		105	42						4
1824 November	Burnt in the conflagration of the Capitol.			862	70		151	191		8	5
			1	2,637	1,712	1,495	1,701	1,741	128	174	111

RECAPITULATION.

	Cannon.	Muskets and Bayonets	Cartridge boxes.	Cartridge box belts.	Bayonet Scabbards.	Bayonet Belts.	Rifles.	Sabres.	Pairs of Pistols.
Arms &c. issued since I came into office,		600	220	115	170	170	64	102	70
" Burnt in conflagration of capitol,		862	70		151	191		8	5
" In the arsenal on the 5th Nov. 1825,	1	1,175	1,422	1,380	1,380	1,380	64	64	36
	1	2,637	1,712	1,495	1,701	1,741	128	174	111

EDMUND H. TAYLOR, *Q. M. G. K. M.*

(B.)

Arms and Accoutrements, issued by order of the Executive.

[To face page 100.]

Date of delivery.	TO WHOM DELIVERED.	Cannon.	Muskets and Bayonets.	Cartridge Boxes.	Cartridge Box Belts.	Bayonet Scabbards.	Bayonet Belts.	Rifles.	Sabres.	Pairs of Pistols.
1814										
April 21	Captain R. Brenham		75	75	75	75	75			
1815										
July 9	" James Shannon		37							
1814										
August 13	" Humphrey Harshall		1							
Nov. 9	Asst. Qr. M. G. T. P. Dudley		195	122	122	116	116			
1816	Capt. E. Richmond, 1 three									
August 9	pound Brass Cannon, &c.	1								
	Capt. R Waller, one six									
	pound Iron piece, &c.	1								
Nov. 15	Capt. John P. Porter		50	50	50	50	60			
14	James Wilmore		50	50	50	50	50			
13	Robert M'Gowan		50	50	50	50	50			
Dec. 10	Stephen Lee		50	50	50	50	50			
	Richard Waller		50	50	50	50	50			
1817										
April 2	Benjamin Doom		50	50	50	50	50			
16	A. F. Macurdy		100	100	100	100	100			
	Keeper of the Penitentiary		3	3	3	3	3			
May 3	Capt. Thomas P. Hart		38	38	38	38	38			
	Charles Warfield		37	37	37	37	37			
June 3	Benjamin H. Perkins,									
	one Iron six pounder, &c.	1	50	50	50	50	50			
	Capt. Isaac Collier		50	50	50	50	50			
19	Wm. Preston, one six									
	Iron pounder, &c.	1								
January 26	Capt. John J. Crittenden, do.	1								
1818										
January 14	John Williams		50	50	50	50	50			
April 17	John C. Buckner		50	50	50	50	50			
June 16	Minor Sturgus		50	50	50	50	50			
	Charles C. Moore		50	50	50	50	50			
30	Charles Honey		75	75	75	75	75			
July 7	H. O. Brown		50	50	50	50	50			
15	Athelston Owens		60	60	60	60	60			
	Michael Davidson		60	60	60	60	60			
October 19	Larkin Martin		50	50	50	50	50			
June 23	Jas. L. Herrin or J. Davenport							60		
	Capt. W. O. Butler, received at Port William		40	40	40	40	40			
1819										
January 15	Capt. Thomas A. Clarke		25	25	25	25	25			
February 5	Isaac W. Walker		50	50	50	50	50			
August 17	Thomas D. Andrews		50	50	50	50	50			
1820										
April 1	John Woods		50	50	50	50	50			
August 4	Wm. Hobson		50	50	50	50	50			
October 3	Sam'l. I. M'Dowell		80	80	80	80	80			
5	James G. Trotter		20	20	20	20	20			
Nov. 21	P. W. Applegate		60	60	60	60	60			
Dec. 6	W. O. Wiley		80	80	80	80	80			
	Reuben Adams		60	60	60	60	60			
1821										
February 3	James B. Burgess		80	80	80	80	80			
March 29	Thomas E. West		50	50	50	50	50			
April 26	Thomas P. Moore		80	80	80	80	80			
1818										
August 29	James Rudd		15	15	15	15	15			
1821										
May 7	W. B. Brown		50	50	50	50	50			
12	Laurence Leavy		24	24	24	24	24			
June 1	John H. Miller		20	20	20	20	20			
October 5	Geo. W. Chambers		60	60	60	60	60			
Dec. 14	Thomas Rudd		60	60	60	60	60			
Nov. 20	G. J. Hammond		60	60	60	60	60			
22	John Williams		20	20	20	20	20			
Dec. 5	Barnet Rodgers		60	60	60	60	60			
19	Dennis Cochran		60	60	60	60	60			
20	W. G. Ellis		40	40	40	40	40			
31	John Tibbatts							15		
June 15	R. B. Parker		20							
1823										
June 27	C. S. Bibb		30							
Sept. 19	Bonds of R. B. Parker and Thomas Anderson, in place									
20	of John M'Calla, for		60	60	60	60	60			
22	Capt. Thomas P. Taul		50	50	5	50	50			
24	E. G. Pollard		60	60		60	60			
1824										
May 26	Hubbard Taylor, Jr.									
	one six pounder, &c.	1								
October 9	D. C. Cosby		60							
Dec. 9	W. M. Garnett		60							
1825										
April 23	E. B. Bibb		60							
June 3	Thompson P. Finnell		60							

Date of delivery.	TO WHOM DELIVERED.	Cannon.	Muskets and Bayonets.	Cartridge Boxes.	Cartridge box Belts.	Bayonet Scabbards.	Bayonet Belts.	Rifles.	Sabre	Pairs of Pistols.
June 8	Capt. Thomas G. Tupman		40							
30	John Dedman		60	50	50	50	50			
August	James Kelly		60	60	60	60	60			
Sept. 10	Richard Elliott		60							
16	Clayton Swingler							64		
1818										
May 15	John Steele								50	50
June 5	John Kay								50	50
20	John H. Graham								50	50
25	J. M. Lemon								50	50
26	Peter Dudley								50	50
	John Hall								50	50
July 1	John Dudley								50	50
7	James Coleman								50	50
August 27	John Shaw								50	50
1818										
January 16	John Cuningham								50	50
1823										
April 12	Abraham Ward								38	38
1819										
May 18	Wm. Garrard								50	50
1825										
May 24	Robert Breckinridge								64	32
1822	Thomas D. Carneal									
Dec. 26	from Newport								75	75
1819	One six pound cannon and									
January	equipments, J. M'Calla	1								
1824										
November	Burnt in Capitol		862	70		151	191		8	5
1825										
Nov 5	In the arsenal 5th Nov. 1825	1	1175	1422	1380	1380	1380	64	64	36
		8	5342	4286	4069	4319	4359	203	799	736

Arms and Accoutrements received from United States, &c.

Date of reception.	RECEIVED.	Cannon.	Muskets & Bayonets.	Cartridge Boxes.	Cartridge Box belts.	Bayonet Scabbards.	Bayonet Belts.	Rifles.	Sabres.	Pairs of Pistols.
1814	Of J. Bernard, being part of the arms drawn by Maj. E. Craig, as part of this States' quota, allowed by the United States		275	167	167	161	161			
1815	Six pound field piece, travelling carriage, &c. Iron	1								
	Three pound brass piece, travelling carriage, &c.	1								
1816	1,200 Muskets complete, and									
January	accroutrements, from New port		1200	1200	1200	1200	1200			
1814	Thirty stand of arms returned by R. Brenham		30	30	30	30	30			
1816	Four six pound cannon, and									
Dec. 18	carriages, with implements, &c.	4								
1817	One six pound cannon and									
January	equipments per receipt of Maj. M'Calla	1								
Sept. 30	1,000 stand of muskets and accoutrements complete		1000	1000	1000	1000	1000			
	100 stand of muskets delivered by A. F. Macurdy		100	100	100	100	100			
1818	600 pair of Pistols, 500 sabres									
June 4	and 75 Rifles							75	500	500
1819	1,467 Muskets and bayonets									
Nov. 11	from Port William		1467							
	50 pair of pistols and 50 sabres, delivered to Governor									
	Slaughter								50	50
1822	One six pound cannon and									
Nov. 15	carriage, &c. delivered at Newport	1								
Dec. 26	75 pair of pistols and 75 cavalry sabres, delivered to									
	Thomas D. Carneal at Newport								75	75
1823	45 stand of muskets returned									
September	by Captain Shannon		45							
October	50 do do John Woods		50	50	50	50	50			
	47 pair of pistols and 46 sabres returned by P. Dudley								46	46
1825	Received by Q. M. G. from									
August	Louisville the balance of States' quota up to 1816.		1140	1440	1440	1440	1440	128	128	64
		8	5307	3987	3987	3981	3981	203	799	736

RECAPITULATION

Showing the total number of Arms received and returned and quantity issued up to November, 1825.

	Cannon.	Muskets and Bayonets.	Cartridge Boxes.	Cartridge Box belts.	Bayonet Scabbards	Bayonet Belts.	Rifles.	Sabres.	Pairs of Pistols.
Received from General Government,	8	5,082	3,807	3,807	3,801	3,301	203	753	689
Returned by individuals,		225	180	180	180	180		46	47
		5,307	3,987	3,987	3,981	3,981	203	799	736
Arms, &c. issued by the Governor,	7	3,305	2,794	2,689	2,788	2,788	139	727	695
On hand 5th November, 1825,	1	1,175	1,422	1,380	1,380	1,380	64	64	36
Burnt in conflagration of Capitol,		862	70		151	191		8	5
	8	5,342	4,286	4,069	4,319	4,359	203	799	736
An excess of Arms that bonds are held for, more than appear to have been received, per Quartermaster's Journal,		35	299	82	338	338			

EDMUND H. TAYLOR, *Quartermaster-General, Ky. Militia.*

The State of Kentucky in account with the United States, for Arms, &c. under the law of April, 1808.

DEBTOR.	*Muskets.*
1816, December 18—To 4 6 pounder cannon and carriages, with implements complete, as per receipt of Governor Slaughter, valued at $1,932, and equal to	138
1817, June 4—1 6 pounder caisson and equipments, as per receipt of Major M'Calla, valued at $280, and equal to	20
Sept. 30—Muskets complete, as per receipt of Governor Slaughter,	1,000
Sept. 30.—100 sets of accoutrements for muskets, as per receipt of Governor Slaughter, equal to	179
1818, June 4—1,000 pistols, 500 cavalry sabres, 75 rifles, as per receipt of Governor Slaughter, and equal to	943
1819, Nov. 11—Muskets complete, as per receipt of do.	1,467
Nov. 11—100 pistols, 50 cavalry sabres, as per receipt of ditto, equal to	86
1822, Nov. 15—1 6 pounder cannon and carriage, with implements complete, delivered at Newport, upon the order of Governor Adair, through Col. R. M. Johnson, valued at $372, and equal to	27
Dec. 26—75 cavalry sabres and belts, 150 pistols, delivered to Major Carneal at Newport, upon the order of Governor Adair, and equal to	132
1823, Jan. 1—Balance due the State, carried down,	1,727
	5,724

CREDITOR.	*Muskets.*
1822, Dec. 31—By the quota of Arms apportioned to the State, from 1st January, 1816, to 31st December, 1822,	5,724
1823, Jan. 1—By balance due the State, brought down,	1,727

Errors excepted.

G. BOMFORD, *Lt. Col.*
on Ordnance Duty.

Ordnance Office, Washington, 10th July, 1823.

Number and description of Arms furnished various Regiments.

No. of Regiment.	Cannon.	Muskets & Bayonets.	Cartridge Boxes.	Cart. box Belts	Bayonet Scabbards.	Bayonet Belts.	Rifles.	Sabres,	Pairs of Pisols.	COUNTIES.
1		145	145	145	145	145		64	32	Jefferson
2		50	50	50	50	50				Nelson
5		160	150	150	150	150	64			Mercer
7		50	50	50	50	50				Madison
9		135	135	75	75	75		50	50	Jessamine
11		50	50	50	50	50		50	50	Woodford
12		60								Scott
13		50	50	50	50	50				Nicholas
14								50	50	Bourbon
15		50	50	50	50	50				Mason
18		50	50	50	50	50				Shelby
22	1	352	225	225	225	225		50	50	Franklin
28		60	60	60	60	60				Bracken
29		60	60	60	60	60				Mason
30		50	50	50	50	50				Fleming
31		70	70	70	70	70				Montgomery
33								50	50	Jefferson
36		50	50	50	50	50		50	50	Clarke
38								50	50	Henry
42		199	170	170	170	170	15	50	50	Fayette
43							58			Mercer
45		60	60	60	60	60				Barren
50		60								Washington
51		60	60	60	60	60				Gallatin
57		50	50	50	50	50				Garrard
63		60	60	60	60	60				Lincoln
65		80	80	80	80	80				Bath
71	1									Bourbon
77		50	50	50	50	50		50	50	Scott
86		70						90	90	Harrison
88		60	60	60	60	60				Henry
91	1	80	80	80	80	80				Logan
94		75	75	75	75	75				Barren
105		40			40	40				Campbell
107		60	60	60	60	60				Simpson

Ordered, That the said message, with the accompanying documents, be referred to the committee to whom was referred so much of the Governor's message as relates to the militia.

The house took up the resolution from the Senate for raising joint committees to examine the several public offices; which being twice read, was concurred in.

Whereupon, Messrs. Hall, Waddell, Allen, (of Nelson,) Daniel, M'Clanahan and Samuel, were appointed a committee on the part of this house, to examine and report the situation of the Treasurer's office; Messrs. M'Connell, Slaughter, Spalding, Bainbridge, Porter, Mullens, Tarlton and Nuttall, to examine the Register's office; and Messrs. Hanson, Brown, Clay, Cowan, Gaines, Gibson, Coleman, Elliston, Bruce and Cox, the Auditor's office.

Ordered, That Mr. Yantis inform the Senate thereof.

The Speaker laid before the house the annual report of the Commissioners of the Lunatic Asylum, at Lexington, which was received and read as follows, viz.

To the honorable, the General Assembly of the Commonwealth of Kentucky.

THE Commissioners of the Lunatic Asylum, in pursuance of an act of the Legislature, requiring them to report, annually, the condition of the institution, beg leave respectfully to submit the following, viz.

That they have received from the public Treasury, of this year's appropriation, the sum of $7,500, and from private individuals, the further sum of $824 37; making, together with the balance on hand, of last year's appropriation, the sum of $12,748 58: That they have expended, during the same period and up to the present time, the sum of $12,432 77, viz. For the new building, $5,735 74; for the purchase of additional furniture for the institution, $554 74; for making repairs, additions, and other permanent improvements to the building and lot, $151 62; for the subsistence of the lunatics and attendants, $1,515 44; for the conveying from various parts of the State, patients to the Asylum, $687 64, and for various other incidental expences, as clothing, medicine, stationary, wages, wood, &c. the further sum of $3,777 59, making altogether the sum of $12,432 77; leaving in their hands, at this time, unexpended, a balance of $315 81, together with $2,500 of this year's appropriation, not drawn from the Treasury, as will more fully appear from the general statement and vouchers which are deposited in the office of the Superintendent, and recorded in the books of the institution.

Your Commissioners beg leave further to state, that there were, as may be seen by a reference to their last annual report, thirty-three individuals who were at that time enjoying the full benefit of this institution, twenty-seven of whom were supported by the munificence of the State, and the remainder were, under contracts made by the Board of Commissioners with their friends or guardians, to be supported out of their individual estates: That there are, at the present time, fifty-four individuals, forty-six of whom are supported by the bounty of the State; the remaining eight, by contracts with their friends, two of whom are from our sister States. Within the last twelve months, seventeen persons have been completely restored to the exercise of *reason*, to the joy of their friends and society, and have been discharged as cured. A few may be considered as being partially relieved; and though most of the remainder, being cases of long standing or of most desperate character, seem not yet to have derived any essential benefit, yet hopes are still entertained by your Commissioners and the Medical Faculty of Transylvania University, who have generously contributed their services gratuitously, that even some of

these cases may yet terminate favorably. Seven cases of mortality have occurred within the last twelve months.

From the appropriation of the last Legislature, and during the present year, your Commissioners have been enabled to erect one of the wings contemplated in the original plan of the building, the dimensions of which are 62 feet long by 22 feet wide, and three stories high; which affords 12 commodious cells, well adapted to the convenience and comfort of the maniacs, who require separate apartments for their own quiet and repose, as well as to prevent annoyance to those around them. These apartments will be comfortably warmed, without placing fire within their reach.

Your Commissioners are, as heretofore, deeply impressed with the importance and necessity of erecting another and similar wing to that which has been recently erected, which would render the establishment sufficiently capacious to accommodate all persons who might be sent to it. It would, doubtless, also add much to the safety and convenience of the institution, if the whole ground was so enclosed as to prevent the escape of individuals who should be permitted to go at large. As it now exists, they must be pent up within two small enclosures, or be watched at an expence greatly disproportioned to the value of a wall or fence.

Nor can they conclude their report, however imperfectly made, without indulging a hope that much need not be said to your honorable body, upon the importance of extending your patronage to an institution which has already received so much of your attention and care. To rescue even one human being from the condition of insanity, the most pitiable of any in creation—to restore it to its family, its friends and its country—to give back its former personal and social enjoyments, would be in some measure to imitate the benignity of the God of Heaven, from whom all those blessings flow.

It will afford to your honorable body much pleasure, to contemplate the happy results experienced from the operation of this institution, both as regards the comfortable condition of all the subjects under its government, and the complete restoration of many; nor can it fail to add to the satisfaction thus produced, to know that the blessings of the establishment have not been exclusively confined to the citizens of our own State, but that they have been extended to the citizens of our sister States, who have not provided similar institutions.

The Commissioners will conclude this report, by soliciting from your honorable body, a committee to examine the buildings lately erected, and the condition of the establishment generally; and that the accounts be examined, settled, and a discharge be granted to them by the General Assembly.

All of which is most respectfully submitted.

By order of the Board.

Lexington, Nov. 18, 1825. JOHN W. HUNT, *Chairman.*

Mr. Carter moved the following resolution:

Be it resolved, That the committee of ways and means be instructed to *enquire as relates to the expediency of introducing* a bill instructing the directory of the Commonwealth's Bank, to suspend the calls of said institution for one year.

The said resolution, having been amended by striking out the words printed in italics, and inserting in lieu thereof the word "report," the question was then taken on adopting said resolution, which was decided in the negative.

The yeas and nays being required thereon by Messrs. Turner and Carter, were as follows:

YEAS—Messrs. Carter, Chenowith, Fulton, Harvey, M'Clanahan, M'Millan, Mullens, Napier, Nuttall and Stephens—10.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Clay, Coleman, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Haskin, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Perrin, Porter, Prince, Reed, Samuel, Skyles, Slaughter, Spalding, Sterrett, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, Wingate, A. White, S. White, Woodson and Yantis—83.

On the motion of Mr. Samuel,

Ordered, That leave be given to bring in a bill for the benefit of the heirs of James Bartlett, deceased; and that Messrs. Samuel, Nuttall and Thomasson, be appointed a committee to prepare and bring in the same.

Whereupon, Mr. Samuel reported a bill of the title aforesaid; which was received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was committed to the committee for courts of justice.

A bill to add a part of Nicholas to the county of Harrison, was ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was referred to the committee of propositions and grievances.

Mr. Bruce, from the majority on the vote by which a bill to alter the time of the annual meeting of the General Assembly, was rejected, moved a re consideration of said vote; and the question being taken thereon, it was decided in the affirmative.

The said bill was then ordered to be engrossed and read a third time to-morrow.

On the motion of Mr. Dyer,

Ordered, That leave be given to bring in a bill to amend the penal laws; and that Messrs. Dyer, Underwood, Hardin, Morris

and Ward, be appointed a committee to prepare and bring in the same.

Mr. Breckinridge read and laid on the table the following resolution:

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That the report of the Commissioners of the Lunatic Asylum of Lexington, submitted to the House of Representatives on the 17th instant, be referred to a joint committee of two from the Senate and four from the House of Representatives, with instructions to visit and inspect the condition of said institution, examine the accounts of the Commissioners and make report.

And thereupon, the rule of the house being dispensed with, the said resolution was taken up, twice read, and on the motion of Mr. Underwood, amended, by adding thereto the following words:

"And that the committee also examine into and report to the Legislature, the condition of Transylvania University, the state of her receipts and disbursements since the last examination made by the committee of the Legislature, and at any other period the committee may deem proper; and that they further report whatever they may think necessary, in relation to the government and situation of the institution."

The said resolution, as amended, was then adopted.

Ordered, That Mr. Underwood carry the said resolution to the Senate, and request their concurrence.

Mr. Lewis Sanders, a member returned to serve in this house from the county of Franklin, appeared, produced a certificate of his election, and of his having taken the several oaths required by the constitution of the United States, and the constitution and laws of this State, and took his seat.

Mr. Wingate moved the following resolution:

Resolved, That the committee of ways and means be instructed to enquire into the expediency of reducing the expences of the Bank of Kentucky, with leave to report by bill or otherwise.

Which being twice read, was adopted.

Mr. Turner moved the following resolution, viz.

Resolved, That copies of the opinion of the Court of Appeals, delivered by Judge Owsley, in the case of Bodley against Gaither, at the present term of said court, deciding that our occupant laws are valid, and not inconsistent with the compact with Virginia, or the constitutions of the United States or of Kentucky, and that said court does not consider the decision of the Supreme Court of the United States, as settling the doctrine to the contrary, so as to bind said Court of Appeals, be printed for the use of the members of this house.

Which being twice read, was laid on the table.

A message from the Senate, by Mr. Hickman:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act to provide for the safe-keeping of Francis Erwin;" and have passed a bill entitled "an act allowing the appointment of an additional constable in Bourbon county," in which bill they request the concurrence of this house.

And then he withdrew.

Mr. E. Watkins moved the following resolution:

Resolved by the House of Representatives, That the committee on courts of justice be instructed to enquire into the expediency of providing by law, uniformity in the questions asked veniremen in criminal prosecutions in this Commonwealth, and that they enquire into the expediency of making them competent jurors, where they have formed or expressed an opinion on common rumor only; and that they have leave to report by bill or otherwise.

Which being twice read, was adopted.

On the motion of Mr. Lackey,

Ordered, That leave be given to bring in a bill to amend the act entitled "an act to alter the time of holding certain circuit and county courts," approved January 12, 1825; and that Messrs. Lackey, M'Connell, Marshall, Fletcher, Duke and Davis, be appointed a committee to prepare and bring in the same.

Mr. Farmer moved the following resolution:

Resolved by the House of Representatives, That the Auditor of public accounts be requested to lay before this house, the amount of taxes receivable into the public Treasury, for the years 1818 and 1819, upon the different species of property subject to taxation by the laws of this Commonwealth; also, the amounts so receivable in the years 1820 and 1821, showing and deducting therefrom, the amount payable to the commissioners, for listing and valueing the taxable property.

Which being twice read, was adopted.

And then the house adjourned.

FRIDAY, NOVEMBER 18, 1825.

Mr. Porter presented the petition of Joseph Hartgrove, praying a divorce from his wife.

Mr. Blackburn presented the petition of Charles Kennedy, praying that a law may pass to allow him permission to erect a dam across a channel of the Kentucky river, at Finn's ripple, for the purpose of erecting and working a water grist mill.

And Mr. Waddell presented the petition of Stephen Pearce, praying compensation for the safe-keeping and maintenance of Frances Key, a lunatic.

Which petitions were severally received, read and referred; the first to the committee of religion; the second to the committee

of propositions and grievances; and the third to the committee of claims.

Mr. Fletcher presented the petition of the heirs of William Denton, deceased, praying that a law may pass to authorise the sale of a portion of the real estate of the decedent.

And Mr. Thomasson presented the petition of the Managers of the Shelbyville and Louisville Turnpike Road Company, praying sundry amendments to the charter incorporating said Company, and that further time may be granted to complete the said road.

Which petitions were severally received, read and referred; the first to a select committee of Messrs. Yantis, Underwood, Green, Walker, Harvey and Fletcher; and the second to a select committee of Messrs. Thomasson, Logan, Brown, Reed and Underwood.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration the debts due to this Commonwealth, and report thereupon:

The debts due the Commonwealth and receivable anterior to the commencement of the present fiscal year, amount to the sum of $24,943 70, as per document marked A. The committee, from inquiry, are satisfied, that although a considerable portion of this sum cannot be collected, owing to the insolvency of the debtors; yet a very large portion, with proper diligence and attention, can be obtained, aided by some additional legislative enactments. The committee would further remark, that they have not been able to ascertain, that heretofore any efficient steps have been taken to collect said debts, dues and demands. The committee are, therefore, of opinion, that it should be made the imperative duty of the attorney-general, by such legal proceedings in the general court, as are now allowed by law, to attend to the collection of all debts, dues and demands owing to the Commonwealth, except those which may be owing to the Bank of the Commonwealth. Another regulation, which, in the operations of the government of the United States, has been found a wise one, ought to be adopted in this State; that is, that no person should draw any money out of the public Treasury, on his own account, until he liquidated and discharged all such sums of money as were due from him to the government. To carry into effect the opinion and views of the committee, they report a bill.

(A)

STATE OF KENTUCKY,
Auditor's Office, 17*th November*, 1825.

SIR—In compliance with your note of the 15th instant, as Chairman of the Committee of Ways and Means, I submit to you the following extracts, to wit:

DATES.	Receipts.	Expenditures.	Am't. of Bank stock subscribed, included in the expenditures.
For the year ending 1800,	52,484 36	56,150 81	
Ditto, 1802,	62,671	53,531 92	
Ditto, 1806,	65,608 62	62,778 07	
Ditto, 1807,		56,250 05	
Ditto, 1808,		70,613 53	
Ditto, 1809,		151,825	
Ditto, 1811,	121,242 81	90,743 79	
Ditto, 1812,		103,206	
Ditto, 1813,		138,286	24,000
Ditto, 1814,	173,190	137,938 98	62,300
Ditto, 1815,	209,494	139,551 62	32,200
Ditto, 1816,	113,000	246,480 47	46,000
Ditto, 1817,	170,443	199,366 55	69,800
Ditto, 1818,	180,710 69	201,509 99	32,300
Ditto, 1819,	181,248 10	163,904 28	19,400
Ditto, 1820,	175,714 98	159,009 18	20,300
Ditto, 1821,	182,652 21	179,531 75	12,826 10
Ditto, 1822,	232,446 66	251,411 22	79,215 13
Ditto, 1823,	191,578 74	233,443 09	28,009 50
Ditto, 1824,	257,122 97	305,562 38	83,604
Ditto, 1825,	312,095 18	302,072 33	130,740

NOTE—From 1800 to 1818, inclusive, taken from the Journals, there being no record of the Auditor's report, before 1819.

In the year ending 10th October, 1822, there was received from the Bank of the Commonwealth of Kentucky, as revenue, (which is included in the general account of moneys received, as before stated,) $61,248 34

Ditto,	1823,	Ditto,	46,403 07
Ditto,	1824,	Ditto,	66,797 91
Ditto,	1825,	Ditto,	66,148 71

The following contains a complete list of old debts, standing on the books of this office as due the State, on the 10th day of October, 1825, and not since paid, to wit:

FROM CLERKS.

Philips Caldwell, clerk of commissioners, $1,584 02
John Blanchard, clerk of Bracken circuit and county courts, 57
Raphael Lancaster, clerk of Casey circuit and county courts, 2 50
John A. Turner, clerk of Bath circuit court, 63 65
George F. Pope, clerk of Bullitt circuit and county courts, 140 86

Francis P. Blair, clerk of Frankhn circuit court,			150 10
Willis A. Lee, clerk of Franklin county court,			80 28
Ditto, do. general court,			89 78
Achilles Sneed, clerk of the court of appeals,			396 20
William Winslow, clerk of Gallatin circuit court,			13 68
Spencer Curd, clerk of Logan circuit and county courts,			223 40
David Irvine, clerk of Madison circuit and county courts,			2
Micajah Harrison, clerk of Montgomery county court,			57 48
M. V. Harrison, clerk of ditto ditto,			120 18
John C. Bacon, clerk of Owen circuit and county courts,			37 53
John M'Kinney, jun. clerk of Woodford circuit and county courts,			188 18
John Hughes, jun. clerk of Washington circuit and county courts,			257 45
DEBTS RECEIVABLE.			
John Logan, former Treasurer,			2,965 34
Luke Munsell,			4,162 50
John Rowan, (specie,)			400
COMMISSIONERS OF NAVIGATION.			
Worthington, Donan and Merrill, commissioners of navigation for Green river,			3 01
Churchill, Waters and M'Lean, comm'rs for Salt river,			05
TAX ON BANK STOCK.			
Christian Independent Bank,			166 14
Bank of Henderson, (Independent,)			450
Bank of Columbia, ditto,			500
SHERIFFS, &c.			
Benjamin, Pope, sheriff of Nelson county, for revenue of	1793,	$104 06	
Ditto, ditto,	1794,	133 61	
Robert Higgins, sheriff of Clarke county,	1796,	1,261 45	
James Dobbins, sheriff of Mason county,	1796,	543 91	
John Chism, sheriff of Green county,	1798,	101 36	
Jame Dobbins, sheriff of Mason county,	1799,	121 52	
William Morrow, sheriff of Bourbon county,	1799,	95 73	
Robert Davis, Sheriff of Bracken county,	1800,	172 26	
James Littell, sheriff of Pendleton county,	1802,	31 99	
Joshua Davis, sheriff of Muhlenberg county,	1803,	99 90	
William Johnson, sheriff of Shelby county,	1803,	1,562 31	
Thomas Gist, sheriff of Livingston county,	1806,	613 26	
John Beardon, sheriff of Livingston county,	1807,	279 43	
Robert Sale, sheriff of Gallatin county,	1809,	48 58	
Robert Baker, sheriff of Clay county,	1811,	52 44	
Henry Hull, sheriff of Nelson county,	1813,	14 41	
West Maulding, sheriff of Logan county,	1815,	11 26	
Jacob Seay, sheriff of Washington county,	1817,	15 95	
Richard Taylor, sergeant of the Court of Appeals,	1817,	738 53	

Nathan Montgomery, sheriff of Adair county, (collected by the sergeant of the Court of Appeals,)	1819,	942	86
Charles Y. Duncan, sheriff of Daveiss county, (do.)	1820,	148	06
John Jones, sheriff of Jefferson county, (do.)	1820,	400	38
Thomas Barnett, sheriff of Livingston county, (do.)	1820,	106	33
Richard M. Thomas, sheriff of Woodford county,	1820,	20	53
William Philips, sheriff of Green county,	1821,	12	72
John Jones, sheriff of Jefferson county,	1821,	2,044	02
John Withers, sheriff of Lincoln county,	1822,	99	44
William Rogers, sheriff of Ohio county,	1822,	233	25
John Grissom, sheriff of Adair county,	1823,	25	65
James Armstrong, sheriff of Bracken county,	1823,		10
Stephen Harper, sheriff of Floyd county,	1823,	153	84
James Paton, sheriff of Harrison county,	1823,	395	28
Lawrence Gorden, sheriff of Henry county,	1823,	819	12
James Allcorn, sheriff of Livingston county,	1823,	103	72
James Caldwell, sheriff of Mercer county,	1823,		02
Lamnon Short, sheriff of Monroe county,	1823,	159	83
Barnabas Wade, Treasurer of the town of Waidsboro', for sale of lots in said town,		1,003	37
Joseph M. White, late Commonwealth's attorney, for salary improperly drawn,		30	68
		$24,943	70

Given under my hand the date above.

PORTER CLAY, *Auditor.*

To BENJAMIN HARDIN, ESQ.

House of Representatives.

Ordered, That the public printers forthwith print 150 copies of said report and document, for the use of the members of this house.

A message was received from the Senate, announcing the passage of bills which originated in this house, entitled "an act for the benefit of the Mercer county court," and "an act concerning the town of Henderson;" and the passage of resolutions requiring information of the Receiver of public money west of the Tennessee river.

Mr. Maupin, from the select committee to whom was referred a bill to alter the mode of taking in lists of taxable property, reported the same with amendments.

Ordered, That the said bill with the amendments, be re-committed to the committee of ways and means.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz.

Gentlemen of the Senate,
and of the House of Representatives:

At the last session of the General Assembly, I communicated to it certain resolutions of the Legislature of the State of Ohio, concerning the emancipation of slaves. I have since received communications from the Governors of the States of Connecticut, Delaware, Georgia, New-Jersey, Illinois, Indiana, Mississippi and Missouri, enclosing resolutions of the Legislatures of those States respectively, expressive of their opinions upon the same subject, with requests that the same may be laid before the General Assembly of this State. Pursuant to those requests, they are herewith transmitted.

JOSEPH DESHA.

November 18, 1825.

CONNECTICUT.

At a General Assembly of the State of Connecticut, holden at Hartford in said State, on the first Wednesday of May, in the year of our Lord 1825: The resolution of the Legislature of the State of Ohio, adopted at their session in the year 1824, recommending to the Legislatures of the several States of the American Union, the consideration of a system for the gradual emancipation of slaves, and of several other Legislatures relative thereto, having been communicated by his excellency the Governor,

It is thereupon resolved by this Assembly, That the existence of slavery in the United States is a great national evil, and that the people and States of this Union ought to participate in the burden and duties of removing it, by all just and prudent measures, which may be adopted with a due regard to their internal peace and mutual harmony; and that a system of colonization, under the patronage of the national government, may reasonably be deemed conducive to so desirable an object.

Resolved, That his excellency the Governor be requested to transmit a copy of the foregoing resolution to the Executive of each of the United States, to be laid before their respective Legislatures.

A true copy of record, examined and certified under the seal of the State, by

THOMAS DAY, *Secretary.*

DELAWARE.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That this Legislature do concur with the General Assembly of the State of Ohio, in opinion that "a system of foreign colonization, with correspondent measures, might be adopted, that would in due time effect the entire emancipation of the slaves in our country, without any violation of the

national compact, or infringement of the rights of individuals, by the passage of a law by the general government, (with the consent of the slave-holding States,) which should provide that all children of persons now held in slavery, born after the passage of such law, should be free at the age of twenty-one years, (being supported, during their minority, by the persons claiming the services of their parents,) provided they then consent to be transported to the intended place of colonization."

Resolved, That the Governor of this State be requested to forward a copy of the above resolution to the Governor of each of the States of the United States, with a request that the same may be laid before their respective Legislatures; and also, a copy to each of our Senators and Representatives in Congress, requesting their co-operation in all national measures having a tendency to effect the object therein embraced.

Passed at Dover, February 3d, 1825.

JOHN ROBINSON, *Speaker pro tem. of the House of Representatives.*

JESSE GREEN, *Speaker of the Senate.*

GEORGIA.

IN SENATE, November 19th, 1824.

The committee to whom was referred the communication of his excellency the Governor, and the accompanying resolutions of the Legislature of the State of Ohio, on the subject of the abolition of slavery, having had the same under consideration, ask leave to report: That the constitutional guaranty made to the States holding slaves, is not less sacred than the obligation imposed by the constitution and laws for the protection of their rights of private property. Such States owe it to themselves, to preserve unimpaired those rights, since the causes which extracted the constitutional concession on this subject, continue to exist in all their force. Your committee are, therefore, constrained to view the resolutions of the Legislature of the State of Ohio, as calculated to infringe the rights of the State of Georgia, in common with other States similarly situated in this particular, and as indelicate in those from whom it emanates. If the evil of slavery be considered a national one, your committee take leave to refer the Legislature of Ohio to the situation of the country as it was originally settled in the south by our ancestors, and to those circumstances, by the force of which slavery in America commenced its existence. While your committee contemplate, with no ordinary emotions, the ameliorated condition of the slave in the southern country, they view with regret, this unnecessary interference on the part of a sister State, so well calculated to excite the anticipations and hopes of the slave, and to impel him to those acts, which, instead of bettering his condition, must augment his misfortunes. Your

committee, therefore, consider the resolutions as violative of the true dictates of humanity; and this idea is supported by a contrast of the slave population of the south, with the wretched and miserable condition of the free people of colour who crowd the houses of punishment and correction, in some of our sister States. If, in the south, they do not revel in liberty, they are at least supplied with the necessary wants of life. Georgia claims the right, with her southern sisters, whose situation in this regard is similar, of moving this question, when an enlarged system of benevolent and philanthropic exertions, in consistency with her rights and interest, shall render it practicable. Your committee, therefore, take leave to recommend the following resolution:

Resolved, That the resolutions of the State of Ohio, proposing the emancipation of slaves, passed on the 7th day of January 1824, be, and the same are hereby disapproved by the Legislature of this State; and that his excellency the Governor be hereby requested to transmit a copy of this resolution to the Executive of each of the United States.

Read and agreed to. ALLEN B. POWELL,
President of the Senate.

Attest,
WM. Y. HANSELL, *Secretary.*

IN THE HOUSE OF REPRESENTATIVES, Dec. 4, 1824.

Read and concurred in.

Attest, JOHN ABERCROMBIE, *Speaker.*
WM. C. DAWSON, *Clerk.*

Approved, 7th December 1824.
G. M. TROUP, *Governor.*

STATE OF NEW JERSEY.

Resolved by the Council and General Assembly of this State, That the consideration of a sytem providing for the gradual emancipation of the people of colour held in servitude in the United States, be recommended to the Legislatures of the several States of the American Union, and to the Congress of the United States.

Resolved, That in the opinion of this Legislature, a system of foreign colonization, with correspondent measures, might be adopted, that would in due time effect the entire emancipation of the slaves in our country, and furnish an asylum for the free blacks, without any violation of the national compact, or infringement of the rights of individuals; and that such a system should be predicated upon the principle, that the evil of slavery is a national one, and that the people and States of the Union ought mutually to participate in the duties and burdens of removing it.

Resolved, That his excellency the Governor be requested to forward a copy of these resolutions to the Executive of each State in the Union respectively, with a request that they lay the same before the several Legislatures; and that his excellency will also

forward a like copy to each of our Senators and Representatives in Congress, requesting their co-operation in all national measures having a tendency to effect the same objects embraced therein.

House of Assembly, December 29th, 1824—These re-engrossed resolutions having been read in the House, resolved that the same do pass.

By order of the House.

DAVID JOHNSTON, *Speaker.*

Council Chamber, December 30th, 1824—These re-engrossed resolutions having been read and compared in the Council, resolved that the same do pass.

By order of the Council.

P. J. STRYKER, *Vice-President.*

ILLINOIS.

Resolution passed by the General Assembly of Illinois, in 1823.

Whereas the General Assembly of the State of Ohio, did, on the 17th day of January 1824, pass the following resolutions, by way of proposition to the States and Congress, viz.

"*Resolved by the General Assembly of the State of Ohio*, That the consideration of a system providing for the gradual emancipation of the people of colour held in servitude in the United States, be recommended to the Legislatures of the several States of the American Union, and to the Congress of the United States.

"*Resolved*, That in the opinion of this General Assembly, a system of foreign colonization, with correspondent measures, might be adopted, that would in due time effect the entire emancipation of the slaves in our country, without any violation of the national compact, or infringement of the rights of individuals, by the passage of a law by the general government, (with the consent of the slave-holding States,) which should provide that all children of persons now held in slavery, born after the passage of such law, should be free at the age of twenty-one years, (being supported, during their minority, by the persons claiming the services of their parents,) provided they then consent to be transported to the place of colonization. Also,

"*Resolved*, That it is expedient that such a system should be predicated upon the principle, that the evil of slavery is a national one, and that the people and States of this Union ought mutually to participate in the duties and burthens of removing it."

Therefore,

Resolved by the General Assembly of the State of Illinois, That it is expedient to concur in the plan proposed in the aforesaid resolutions; and that the Governor of this State be requested to transmit copies of the foregoing preamble and resolutions to the Executives of the several States, with a request that they be laid be-

fore the Legislatures thereof, and that he transmit copies of the same to our Senators and Representatives in Congress.

THOMAS MATHER, *Speaker of the House of Representatives.*
A. F. HUBBARD, *President of the Senate.*

INDIANA.

A joint resolution respecting the gradual emancipation of Slaves and colonization of people of colour within the United States.

Whereas the General Assembly of the State of Ohio, did, at their session in 1824, adopt the following resolutions, and request the concurrence of the several States of the Union therein, to wit:

"*Resolved by the General Assembly of the State of Ohio*, That the consideration of a system providing for the gradual emancipation of the people of colour held in servitude in the United States, be recommended to the Legislatures of the several States of the American Union, and to the Congress of the United States.

"*Resolved*, That in the opinion of this General Assembly, a system of foreign colonization, with correspondent measures, might be adopted, that would in due time effect the entire emancipation of the slaves in our country, without any violation of the national compact, or infringement of the rights of individuals, by the passage of a law by the general government, (with the consent of the slave-holding States,) which should provide that all children of persons now held in slavery, born after the passage of such law, should be free at the age of twenty-one years, (being supported, during their minority, by the persons claiming the services of their parents,) provided they then consent to be transported to the intended place of colonization. Also,

"*Resolved*, That it is expedient that such a system should be predicated upon the principle, that the evil of slavery is a national one, and that the people and States of this Union ought mutually to participate in the duties and burthens of removing it."

Therefore,

Resolved by the General Assembly of the State of Indiana, That we do approve of, and cordially concur in the aforesaid resolutions of the State of Ohio; and that his excellency the Governor be requested to communicate the same to the Executives of the several States in the Union, and each of our Senators and Representatives in Congress, requesting their co-operation in all national measures, to effect the grand object therein embraced.

S. C. STEPHENS, *Speaker of the House of Representatives.*
JAMES B. RAY, *President of the Senate pro tem.*

Approved, Feb. 7, 1825.
WILLIAM HENDRICKS.

MISSISSIPPI.

A resolution disagreeing to a resolution from the State of Ohio.

Resolved by the Senate and House of Representatives of the State of Mississippi, in General Assembly convened, That the State of Mississippi does not concur in the resolution from the State of Ohio, proposing a plan for the emancipation of slaves in the United States.

Resolved, That his excellency the Governor be requested to forward a copy of the foregoing resolution to the Governors of the several States, requesting them to lay the same before the Legislatures thereof.

COWLES MEAD, *Speaker of the House of Representatives.*
GERARD C. BRANDON,
Lieut. Governor and President of the Senate.

Approved, February 3d, 1825.

WALTER LEAKE.

MISSOURI.

Resolved by the Senate and House of Representatives of the State of Missouri, That they do concur in the amendment proposed by the State of Georgia, to the constitution of the United States, passed the 22d day of December 1823, in the words following, viz. "That no part of the constitution of the United States ought to be construed, or shall be construed to authorise the importation or ingress of any person of colour into any one of the United States, contrary to the laws of such State."

Resolved by the Senate and House of Representatives of the State of Missouri, That this State does not concur in recommending to the Legislatures of the several States, or the Congress of the United States, the measures proposed by the resolutions of the Legislature of the State of Ohio, passed the 17th day of January 1824.

Resolved, That the Governor of this State be, and he is hereby requested to communicate these resolutions to the Executives of the different States, and request that the same may be submitted to their respective Legislatures.

H. S. GEYER, *Speaker of the House of Representatives.*
B. H. REEVES, *President of the Senate.*

Approved, January 22, 1825.

FREDERICK BATES.

Ordered, That the said message and documents be laid on the table.

Mr. Underwood, from the committee for courts of justice, made the following report, viz.

The committee for courts of justice have, according to order, had under consideration several petitions to them referred, and have come to the following resolutions, viz.

Resolved, That the petition of the heirs of Samuel Elliott, deceased, praying that a grant may issue to them for a tract of 200 acres of land, surveyed in the name of Robert Craig, *be rejected.*

Resolved, That the petition of the adult heirs and the guardians of the infant heirs of John Thomas, deceased, praying for the passage of a law authorising the sale of certain lands, devised to said heirs, *be rejected.*

Resolved, That the petition of the administrators, creditors and heirs of John Smock, deceased, praying for the passage of a law authorising the sale of a tract of land, which descended to said heirs, *be rejected.*

Which being twice read, was concurred in.

On motion,

Ordered, That Mr. Allen, (of Nelson,) be added to the committee raised on so much of the Governor's message as relates to the militia.

Mr. Davis moved for leave to bring in a bill to repeal the law authorising justices of the peace to grant *supersedeases* on writs of error *coram vobis* and injunctions; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was rejected.

On the motion of Mr. Woodson,

Ordered, That leave be given to bring in a bill further to regulate the town of Nicholasville; and that Messrs. Woodson, Blackburn and Breck, be appointed a committee to prepare and bring in the same.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to extend the limits of the town of Mountsterling.

2. A bill to authorise James Lindsey to build a dam across Green river.

By Mr. Hardin, from the committee of ways and means—3. A bill further to regulate the collection of debts due this Commonwealth.

By Mr. Underwood, from the committee for courts of justice—4. A bill to amend the law in relation to delivery bonds.

5. A bill further to reduce and amend the execution laws of this Commonwealth.

By Mr. M'Clanahan—6. A bill for the benefit of mechanics.

By Mr. Porter—7. A bill for the benefit of William Davis.

By Mr. Thomas—8. A bill further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands.

By Mr. Woodson—9. A bill further to regulate the town of Nicholasville.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 5th, 6th and 9th bills, having been dispensed with, the 1st and 9th were ordered to be engrossed and read a third time; the 2d was committed to a select committee of Messrs. Hall, Maupin, S. White, Logan, Walker, Z. Taylor, Underwood, Cox and Fletcher; the 3d to a committee of the whole house on the state of the Commonwealth, for the 22d instant; the 5th to a committee of the whole house, for the 23d instant; and the 6th to the committee for courts of justice.

Ordered, That the public printers forthwith print 150 copies of the 3d and 5th bills, for the use of the members of this house.

And thereupon the rule of the house, constitutional provision and third reading of the 1st and 9th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Woodson carry the said bills to the Senate and request their concurrence.

Mr. Underwood moved the following resolutions:

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of providing by law some adequate means to compel debtors, who have no visible property, to surrender their money and secret means of payment, to satisfy the debts honestly due by them.

Resolved further, That said committee be instructed to enquire into the expediency of providing by law, some mode by which insolvent debtors may surrender all their property except that which is now exempt from execution, for the benefit of their creditors; and into the propriety of providing for a distribution of the proceeds of the sale of the property and money which may be surrendered, among creditors, in proportion to the amount of their demands respectively; and that said committee have leave to report by bill or otherwise.

Which being twice read, were adopted.

Mr. Morris moved the following resolution:

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of revising and amending the laws authorising the sale of non-residents' lands for debt; and have leave to report by bill or otherwise.

Which being twice read, was adopted.

Mr. Harvey moved the following resolution:

Resolved, That the public printers be directed to lay before this house, a detailed statement of their accounts for services rendered during the year ending the 10th day of October last.

Which being twice read, was adopted.

Mr. Walker moved the following resolution:

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of amending the law in relation to trials of the right of property, levied on by execution; and that they have leave to report by bill or otherwise.

Which being twice read, was adopted.

Mr. Davis moved the following resolution:

Resolved, That the committee for courts of justice be requested to enquire into the necessity of changing the law with regard to granting injunctions, *supersedeas*, &c.

Which being twice read, was adopted.

Mr. Breck moved the following resolution:

Resolved, That the committee for courts of justice be instructed to enquire into the expediency of rendering bail, in civil cases, responsible, where execution against the estate of the principal, shall be returned, *no property*, and where the principal shall not surrender himself or be surrendered in open court; and that said committee also enquire into the expediency of providing by law for the mode of discharging the principal from custody, when he shall surrender himself or be surrendered.

Which being twice read, was adopted.

Mr. Hanson moved the following resolution:

Resolved, That the committee of ways and means be instructed to enquire whether a regular statement and account of the receipts and expenditures of all public money, have been published annually, agreeably to the constitution, and whether any further legislation on said subject be necessary; and that they report by bill or otherwise.

Which being twice read, was adopted.

Leave was given to bring in the following bills:

On the motion of Mr. Sterrett—1. A bill to enlarge the boundaries of the lower precinct in Breckinridge county, and for other purposes.

On the motion of Mr. B. E. Watkins—2. A bill to amend the law authorising the appropriation of the vacant land within this Commonwealth, by warrant.

On the motion of Mr. Lackey—3. A bill for the benefit of Owen Owens.

On the motion of Mr. M'Connell—4. A bill to punish swindling in the sale of land.

On the motion of Mr. Owsley—5. A bill authorising the clerk of the Cumberland county court to transcribe certain records.

And on the motion of Mr. Napier—6. A bill for the benefit of Robert Davis.

Messrs. Sterrett, Hardin and Cox, were appointed a committee to prepare and bring in the first; Messrs. Watkins, Cowan, Hansford and Harvey, the second; Messrs. Lackey, M'Connell and

Bruce, the third; Messrs. M'Connell, Underwood and Mayes, the fourth; Messrs. Owsley, Walker and Cunningham, the fifth; and Messrs. Napier, Walker and Owsley, the sixth.

The following bills from the Senate, were severally read the first time and ordered to be read a second time, viz. 1. An act to amend an act entitled "an act for the benefit of the widow and heirs of Wilson Pickett, and the executors and administrators of Azariah Davis, deceased," approved February 4th, 1817; and 2, an act allowing the appointment of an additional constable in Bourbon county.

And thereupon the rule of the house, constitutional provision and second and third readings of said bills having been dispensed with,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

The yeas and nays being required on the passage of the first bill, by Messrs. M'Connell and Haskin, were as follows, viz.

YEAS—Mr. Speaker, Messrs. John J. Allin, Bainbridge, Barbee, Breck, Brown, Bruton, Coombs, Cowan, Cunningham, Dyer, Elliston, Evans, Fletcher, Gordon, Grundy, Hall, Hansford, Haskin, Hutchison, James, Lackey, Maupin, M'Clanahan, Morris, Mullens, Nuttall, Prince, Sanders, Spalding, Stephens, Sterrett, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Thomasson, Waddell, Wade, Walker, B. E. Watkins, Wilson, Wingate, A. White, S. White and Yantis—46.

NAYS—Messrs. Blackburn, Breckinridge, Bruce, Carter, Clay, Chenowith, Cox, Dunlap, Farmer, Ford, Gaines, Gibson, Hanson, Hardin, Harvey, Logan, Marshall, Martin, M'Connell, M'Millan, Napier, Owings, Payne, Perrin, Porter, Reed, Samuel, Skyles, Slaughter, Street, Thomas, True, Underwood, E. Watkins and Wilcoxen—35.

Ordered, That Mr. Timberlake inform the Senate thereof.

Engrossed bills of the following titles, were severally read a third time, viz. 1. An act to allow additional justices of the peace and constables to sundry counties; 2, an act to compel free persons of colour to work on roads and highways; and 3, an act to alter the time of the annual meeting of the General Assembly.

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

The yeas and nays being required on the passage of the third bill, by Messrs. Maupin and Perrin, were as follows:

YEAS—Messrs. Bainbridge, Blackburn, Breckinridge, Brown, Bruce, Carter, Chenowith, Cowan, Cox, Crittenden, Duke, Dunlap, Elliston, Evans, Farmer, Fulton, Gaines, Gibson, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, James, Lackey, Logan, Marshall, Martin, Mayes, M'Clanahan, M'Connell, M'Millan, Morris, Mullens, Napier, Owings, Payne, Perrin, Sanders, Skyles, Slaughter, Spalding, Sterrett, Robert Taylor, Thomas, True, Underwood, Waddell, B. E. Watkins, Wingate, A. White, Woodson and Yantis—54.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Barbee, Breck, Bruton, Clay, Coombs, Cunningham, Daniel, Davis, Dyer, Fletcher, Ford, Gordon, Grundy, Hall, Maupin, Nuttall, Owsley, Porter, Prince, Reed, Samuel, Stephens, Street, Richard Taylor, Z. Taylor, Thomasson, Turner, Wade, Walker, E. Watkins, Wilcoxen, Wilson and S. White—36.

Ordered, That Mr. Maupin carry the said bills to the Senate and request their concurrence.

The following bills were severally read a second time, and ordered to be engrossed and read a third time, viz. 1, A bill to amend the law requiring clerks of courts to make out complete records in certain cases; 2, a bill for the benefit of Eliza H. Eachus; 3, a bill to continue in force the law providing for the appointment of Commonwealth's attorneys; 4, a bill for the benefit of Elijah Adkins; 5, a bill to establish the Cumberland Hospital; 6, a bill for the benefit of George Owings; 7, a bill for the benefit of Henry Harlowe and others; 8, a bill for the benefit of Richard T. Jones and wife; 9, a bill for the benefit of the widow and heirs of Thomas Blincoe, deceased; and 10, a bill for the benefit of Isaac C. Chenowith and others.

And thereupon the rule of the house, constitutional provision and third reading of the 2d, 4th, 8th and 10th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Wade carry the said bills to the Senate, and request their concurrence.

An enrolled bill, entitled "an act authorising the collection of certain moneys due to the first Presbyterian Church in Louisville," which passed the Senate, the Governor's objections to the contrary notwithstanding, was taken up and referred (together with the objections of the Governor) to the committee of religion.

The Speaker laid before the house a report from the Auditor of public accounts, containing the information required by a resolution of this house; which was received and read as follows, viz.

AUDITOR'S OFFICE, 18TH NOVEMBER, 1825.

SIR—In conformity with a resolution from the House of Representatives, dated yesterday, and received by me this morning, I herewith make the following report, which you will please lay before the house, to wit:

The Revenue payable in the year 1818, amounted to the sum of			$67,934 40
Ditto	1819,	Ditto	88,735 00
Total Revenue for the years 1818 and 1819,			$156,669 40
The Revenue payable in the year 1820, amounted to the sum of			$103,796 40
Ditto	1821,	Ditto	88,372 99
Total Revenue for 1820 and 1821,			$192,169 39
Amount paid commissioners of tax in the year 1820,		$6,142 37	
Ditto 1821,		7,138 25	13,280 62
Net, after paying com'rs. of tax for 1820 and '21,			$178,888 77

From which deduct the tax of 1818 and '19 as above, 156,669 40

Leaving a balance (after paying the commissioners of tax of 1820 and '21, and deducting the revenue of 1818 and '19) of $22,219 37

The following statement is made out and submitted by the request of John M. M'Connell, Esq. a member of your House, viz.

The Revenue payable in the year	1816,	amounted to	$59,516 04
Ditto	1817,	Ditto	63,817 82
Ditto	1818,	Ditto	67,934 40
Total Revenue for	1816–17 and '18,		$191,268 26
The Revenue payable in the year	1819,	amounted to	$88,735 00
Ditto	1820,	Ditto	103,796 40
Ditto	1821,	Ditto	88,372 99
Total Revenue for	1819–20 and '21,		$280,904 39
Amount paid com'rs. of tax in	1819,	$2,153 00	
Ditto	1820,	6,142 37	
Ditto	1821,	7,138 25	15,433 62

Net, after paying commissioners of tax for said years, $265,470 77

From which deduct the Revenue for 1816–17 and 18, as above, 191,268 26

Leaving a balance (after paying commissioners of tax for 1819–20 and '21, and deducting the Revenue of 1816–17 and '18, when there was no pay allowed commissioners of tax) of $74,202 51

All of which is respectfully submitted.

PORTER CLAY, *Aud. P. A.*

GEORGE ROBERTSON, Esq.
Speaker of the House of Representatives.

Ordered, That the said report be referred to the committee of ways and means.

The Speaker also laid before the house, a report from the "*Visiters*" of the Penitentiary; which was received and read as follows, to wit.

FRANKFORT, November 18th, 1825.

Dear Sir:

By an act of the Legislature, approved 10th of January 1825, the Auditor, Treasurer, Register and Attorney-General were appointed a Board of Visiters to the Penitentiary, for the

purpose of examining the state of that institution, the health of the convicts, the manner of dieting them, the cleanliness of the dormitories and cells, and the treatment of the convicts generally, and to make such memoranda and observations as would enable them to report to the Legislature, their opinion as to the management and government of the institution. In conformity to which, they now beg leave to make the following report, viz.

On the first of February last, three of the above named Visiters attended at the Penitentiary, (it being the day on which it was delivered into the hands of the present Keeper.) They found the institution in the most wretched condition; the convicts, 84 in number, in want of an entire new suit of clothing suitable for the winter, the most of them having on linen garments, and them entirely worn through, and exposing their persons, in many places, to the weather. The dormitories or cells in which the prisoners are confined at night, and their bedding, were filthy in the extreme, and mostly worn out; nor was there a sufficient quantity to protect them from the cold. Some of the frames for the beds were broken down; none of them much larger than necessary for one person; but, from there not being a sufficient number of them, they had to lodge two, and sometimes three together. The cells were insecure, having only two small hasps and staples upon the upper doors, and one on the lower, with very indifferent padlocks, as the only securities against escapes.

The new cells were in an unfinished state, having no floors, (with the exception of about ten in the upper story,) no doors but three, no platforms in front of them, nor were any of them plastered.

The top of the wall was finished by being shingled over, and the roof surmounted by a light frame, on which were laid planks, as a walk for the guard. This frequently afforded facilities to the convicts to make their escape.

The yard was incumbered with stone and rubbish which was left in the erection of the new, and the remains of the old walls. Part of the yard was so extremely noxious, from neglecting to cleanse the necessary, as not to be approached. The meat-house entirely without tubs, blocks or furniture of any kind, and not a particle of provisions on hand. The convicts filthy as well as ragged, and all in a state of extreme neglect.

The Board of Visiters have regularly visited the Penitentiary once in each month, since Mr. Scott has had possession, and have seen, with pleasure, the rapid improvement in the state of the institution. The new cells are entirely finished, and rendered secure, and as comfortable as they should be; the frames on the top of the walls are removed; the stone and rubbish taken away from the yard, and the necessary cleansed, and is kept in good order. A portion of the convicts were unhealthy, in the spring; some were attacked with chills and fevers, some with dysenteries

and colds; but the health of the institution is much improved, and at present there are but few on the sick list.

The prisoners are fed three times each day, on common, wholesome food, which is prepared by persons regularly detailed to cook; and at the ringing of a bell, the whole sit down to their meals, each man's portion being before him. This method is considered preferable, inasmuch as time is saved in the preparation of their food, as well as in eating, and also, the health, cleanliness and comfort of the convicts greatly promoted. The convicts are clothed, in summer, with country linen, and in the winter, with linsey garments, sufficiently variegated to be distinguished, in the event of their escaping. The Keeper has lately adopted the plan of alternately changing the inmates of each dormitory, every night; thus preventing any combinations or well digested plots for escaping.

Great improvements are made, both in the quantity and quality of the articles manufactured, and instead of remaining on hand for the want of purchasers, there are but a small quantity on hand, and those principally of the first experiments, and the demand is daily increasing.

The introduction of labor-saving machinery, together with some new fabrics, promises fair to yield a considerable profit to the institution.

The Visiters forbear to suggest their views as to what may be expected, when all the arrangements contemplated shall have been completed; but they esteem it their duty to say, that it is now in a much better condition than it ever has been since their first acquaintance with the interior management of the institution; and, indeed, the present Keeper appears to be peculiarly qualified for conducting the concerns of an institution of that description.

The Visiters, in concluding their report, would suggest, that if the present wall of the Penitentiary was raised four or five feet higher, so that all attempts to escape might be rendered hopeless, it would add very much to curb the turbulent and humble the proud, and at once put those unhappy creatures to thinking about reformation, instead of escape. True, no escapes have taken place since the present Keeper has had possession; but this must be ascribed more to the vigilance of those concerned, than to the impracticability of the thing.

All which is respectfully submitted, by yours, &c.

PORTER CLAY,
SAMUEL SOUTH, } *Visiters.*
JOHN M. FOSTER,

(The latter not present at the exchange of Keepers.)

To GEORGE ROBERTSON, ESQ.
Speaker of the House of Representatives.

On motion,

Ordered, That the committee for courts of justice be discharged from the further consideration of a resolution directing the said committee to enquire into the expediency of bringing in a bill to reduce the salaries of the circuit Judges.

And then the house adjourned.

SATURDAY, NOVEMBER 19, 1825.

Mr. Breckinridge presented the petition of the officers of the 42nd regiment, praying certain amendments to the militia laws.

And Mr. Hardin presented the petition of William Elliot and Lucinda his wife, who is under the age of 21 years, praying that a law may pass to authorise them to contract with a negro girl slave, named Narcissa, now belonging to them, for the price of her freedom.

Which petitions were severally received, read and referred; the first to the committee raised on so much of the Governor's Message as relates to the militia, and the second to the committee for courts of justice.

A message was received from the Senate announcing the passage of bills of the following titles: An act for the benefit of John Ritchey, of Allen county; an act to remove the location of the seat of justice for M'Cracken county; and the adoption of a resolution which originated in this house, for appointing a joint committee to examine and report the situation of the Lunatic Asylum and the Transylvania University.

Whereupon Messrs. Underwood, Walker, Ward and Haskin, were appointed a committee on the part of this house, pursuant to said resolution.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under their consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of the citizens of Trigg county, praying that two small parts of Caldwell county be added to the county of Trigg, *be rejected*.

Resolved, That the petition of Charles Kennedy, praying for leave to erect a dam across part of Kentucky River, at Flinn's ripple, under certain restrictions, *is reasonable*.

Resolved, That the petition of William Tackett, Jesse Hamilton and Meredith Collier, praying that a law may pass prohibiting the location by any other person, of two thousand acres of land around

and including the place where they are boring for salt water on Shelby's creek, in Pike county, for four years, *is reasonable.*

Which being twice read, the first resolution was laid on the table, and the second and third concurred in.

Ordered, That the said committee prepare and bring in bills pursuant to the second and third resolutions.

Mr. Crittenden, from the committee for courts of justice, reported, as unfinished business of the last session, a bill appointing commissioners to view and mark out a State road from Louisville to the Iron Banks; which was read the first time and ordered to be read a second time.

Mr. Crittenden, from the same committee, reported a bill for the benefit of mechanics, without amendment; which was laid on the table.

Mr. Crittenden, from the same committee, reported a bill for the benefit of Isaac Williamson, administrator of Isaac Conclude, a free man of colour, and to repeal, in part, an act passed the 12th of January, 1825, entitled "an act for the benefit of Zachary Conclude," with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read "an act to repeal in part an act entitled, an act for the benefit of Zachary Conclude."

Ordered, That Mr. Thomasson carry the said bill to the Senate and request their concurrence.

Mr. Crittenden, from the same committee, made the following report, to wit:

Resolved, That it is inexpedient to discontinue or abolish the office of Reporter of the decisions of the Court of Appeals.

Resolved, That the petition of Frank Carr, *is reasonable.*

Which being twice read, the first resolution was laid on the table, and the second concurred in.

Ordered, That the committee for courts of justice, prepare and bring in a bill pursuant to the second resolution.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on the 17th instant, approve and sign an enrolled bill which originated in this house, entitled "an act for the benefit of the clerks of the Hopkins and Oldham circuit courts; and I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz

Gentlemen of the Senate,
and of the House of Representatives:

In compliance with certain resolutions of the last General Assembly, for procuring a portrait of General Lafayette, I employed Matthew H. Jouitt, Esq. by letter of the 3d of February 1825, to execute the same, and forwarded by him, to General Lafayette, who was at that time in Washington City, the resolutions of the General Assembly upon the subject, with a request that Mr. Jouitt might be permitted to accomplish their object.

It appears from a communication lately received from Mr. Jouitt, that he has finished the portrait, and will have it in Frankfort in a few days. That communication, together with the above mentioned correspondence, is transmitted herewith.

The price of the painting not having been fixed by the last General Assembly, will have to be determined by the present. This can be done with more justice to the artist who produced it, after its arrival in the capital, when its merits may be seen.

JOSEPH DESHA.

November 19, 1825.

FRANKFORT, KY. February 3d, 1825.

General Lafayette:

SIR—The Legislature of this State, anxious to testify the high regard in which its constituents hold your exertions in the cause of liberty, and desirous to perpetuate, as far as possible, the genial influence which your presence among us is calculated to have upon our sentiments, by reviving our recollections of the thraldom from which, by your aid, our ancestors struggled into freedom, have desired me earnestly to solicit that you will permit your portrait to be taken for its use. Its resolutions upon this subject I have the honor to enclose. They breathe the feelings, not only of the Legislature, but of the people whose organ it is; who will feel happy in the opportunity which your consent will afford, of transmitting to posterity the image of the person whose services in the war of the revolution, next to those of the immortal father of his country, most demand their gratitude.

The bearer of this letter, Mr. M. H. Jouitt, is the artist mentioned in the resolutions, whom, pursuant to the request contained therein, I have employed to execute the work. His talent for painting, which is equalled only by the purity of his mind and the urbanity of his manners, leaves no room to doubt, that, should you yield to the wishes of the State, he will do ample justice to his subject.

With sentiments of the most profound esteem and respect,

I am, SIR, your obedient servant,

JOSEPH DESHA.

GENERAL LAFAYETTE, *Washington City.*

FRANKFORT, Ky. February 3d, 1825.

Sir:

Enclosed are certain resolutions of the Legislature of this State, relative to a portrait of General Lafayette. Pursuant to a request contained in these resolutions, I now, on behalf of the State, employ you to execute the said portrait, and desire that the same may be done as early as is practicable, consistently with your convenience. From recent information, it is presumed that General Lafayette will remain in Washington City until some early time in the month of March. If so, you will perhaps have sufficient time to execute the portrait in that city. Should you determine to proceed there, you will bear the enclosed letter to General Lafayette. It encloses a copy of the resolutions, and contains a request that he will permit the portrait to be taken, with a notice that you are the person employed to execute it.

The compensation for the picture, when finished, will be left to the Legislature, to whose judgment, in graduating it according to the excellence of the performance, it is presumed your talent in your profession and confidence in its liberality, will not object.

With great respect, I am, Sir,

Your obedient servant,

JOSEPH DESHA.

Mr. M. H. JOUITT.

LOUISVILLE, February 9th, 1825.

Sir:

I have had the honor to receive your communication of the 3d, enclosing a copy of resolutions and a sealed letter to General Lafayette. I will, as you desire, complete the work assigned me as early as practicable, and avail myself of every circumstance to ensure a faithful picture to the State, and merit the confidence entertained of me by yourself and the Legislature.

I have the honor to remain your obedient servant,

MAT. H. JOUITT.

JOSEPH DESHA, ESQ.

FAYETTE COUNTY, November 12th, 1825.

Sir:

I have the honor to inform you, that in pursuance to my letter of ———, in answer to yours of the 3d February, enclosing a copy of resolutions and a letter of introduction to General Lafayette, I set out from Louisville for Washington City, on the 11th, calculating that I should be able to reach in time to accomplish my object, as the time for the General's departure on his southern tour was set for the 6th of March; but he left on the 23d, and I did not arrive until the 25th.

Hearing of the resolution, and of my expected visit to the City, the General, in a conversation with Mr. Clay, a few days previous

to his departure, after regretting the necessity of his absence, recommended, that in the event of my coming on, I should make a copy of the picture then in the possession of Congress, and that he would, if necessary, sit to me to have it retouched, when he came on to Kentucky. I need not state to you, that he kindly fulfilled his promise, the morning he left Lexington, as you were with him on that interesting occasion.

As the picture from which I made my copy was hung in the rotunda of the Capitol, and could not be taken down during the sitting of Congress, my stay in the City was, of course, considerably protracted. As soon as Congress adjourned, I was favored with a letter from Mr. Clay to Capt. Birch, one of the officers of government, which secured from that amiable and obliging gentleman, every attention and facility that could be desired, during my continuance in the capital. From the City, I went to Philadelphia; and thinking, whilst there, that a sketch of Washington's Monument would form no inappropriate back ground to my picture, I concluded to take Mount Vernon in my way home. The season at which the General made his visit to the tomb, I have endeavored, as you will perceive, to perpetuate in the painting. This view I was sensible, would not afford the best relief to the figure; but it was a sacrifice which I felt myself called upon to make to the many endearing recollections and associations connected with his visit to that consecrated spot.

How far I have been happy in this design, and in the whole picture, (a brief history of which I have here given,) is for the representatives of the people now to say. The painting I could have made more splendid, had I preferred artifice to truth, or ornament to nature; but a master had gone before me, and him I determined to follow. I had never seen General Lafayette, and expected but my hour, when good fortune should bring him before me. Had I him before me every day for a month, I do not believe I could more happily hit off the whole man, than Sheffer has done. Under these circumstances, may I not express the hope, (seeing that the merits of the design belong to another,) that the people of Kentucky will be satisfied with the success with which I have executed the task imposed upon me?

Your Excellency was pleased to say, that in the hour that was allowed me to retouch the veteran's face, I corrected whatever had been superinduced by time, change of health, or other circumstances. After all, should I fail to meet the wish of the people of Kentucky, which was, to be furnished with a faithful likeness of the beloved original, I beg they will attribute the miscarriage to any other than an insensibility to the honor conferred in their resolutions.

In a few days, the painting, with a frame, (which I have had made at my own responsibility,) will be ready to be delivered in

Frankfort; until which, be pleased to accept the assurances with which I have the honor to be

Your obedient servant,

M. H. JOUITT.

His Excellency JOSEPH DESHA.

Ordered, That the said message and the accompanying documents, be referred to the committee of claims.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Wilcoxen—1. A bill to compel owners and occupiers of land, to fill up, enclose or cover, pits and wells fallen into disuse.

By Mr. Breckinridge—2. A bill for the benefit of the heirs of Abraham Bowman.

By Mr. Logan—3. A bill to revive and continue in force, an act entitled "an act further to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes."

By Mr. Underwood—4. A bill to amend the acts relative to the Shelbyville and Louisville Turnpike Company.

By Mr. Owsley—5. A bill providing for the transcribing certain records of the Cumberland county court.

By Mr. M'Connell—6. A bill to punish swindling in the sale of lands.

And by Mr. Lackey—7. A bill for the benefit of Owen Owen.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and the second reading of the 1st, 2d, 3d, 5th, 6th and 7th bills having been dispensed with, the 1st and 2d were ordered to be engrossed and read a third time; the 3d was committed to a select committee of Messrs. Fletcher, Logan and Underwood; the 5th to a select committee of Messrs. Hardin, Owsley, Walker and Mayes; the 6th to a select committee of Messrs. Maupin, M'Connell, Hardin, Fletcher and Underwood; and the seventh to the committee of claims.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Wilcoxen carry the said bill to the Senate, and request their concurrence.

Mr. Allin, (of Mercer,) from the joint committee of enrolments, reported that the committee had examined an enrolled resolution raising joint committees to examine and report the condition of the several public offices; and had found the same truly enrolled.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Allin inform the Senate thereof.

Ordered, That Mr Lackey be added to the committee of claims.

Engrossed bills of the following titles, were severally read the third time, to wit: 1, An act to amend the law requiring clerks of courts to make out complete records in certain cases; 2, an act to continue in force the law providing for the appointment of Commonwealth's attorneys; 3, an act for the benefit of George Owings; 4, an act for the benefit of Henry Harlowe and others; and 5, an act for the benefit of the widow and heirs of Thomas Blincoe, deceased.

The second bill was laid on the table; and the question being taken on the passage of the third, it was decided in the negative, and so the said bill was disagreed to.

Resolved, That the first, fourth and fifth bills do pass, and that the titles thereof be as aforesaid.

Ordered That Mr. Turner carry the said bills to the Senate, and request their concurrence.

A message was received from the Senate, announcing the passage of bills of the following titles: An act to transfer the bank stock of Caledonia Academy, and for other purposes; an act for the benefit of Jesse Alcorn; and an act to amend an act entitled "an act for the benefit of Daniel Trabue and others," approved January 7th, 1824.

Bills of the following titles: 1, A bill to amend the law in relation to delivery bonds; and 2, a bill further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands; were severally read the second time.

Ordered, That the first bill be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Turner carry the said bill to the Senate and request their concurrence.

The second bill was committed to a select committee of Messrs. Underwood, M'Connell, Walker, Mayes, Hardin, Hall and Maupin.

Ordered, That the public printers print 150 copies of the said bill, for the use of the members of this house.

Resolutions from the Senate, requiring information of the Receiver of public moneys west of the Tennessee river, were taken up, twice read, and committed to the committee for courts of justice.

Bills from the Senate of the following titles, to wit: 1, An act to remove the location of the seat of justice for M'Cracken county;

2, an act to transfer the bank stock of the Caledonia Academy, and for other purposes; 3, an act for the benefit of Jesse Alcorn; and 4, an act to amend an act entitled "an act for the benefit of Daniel Trabue and others," approved January 7th, 1824; were severally read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second bill being dispensed with,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Prince inform the Senate thereof.

A bill from the Senate, entitled "an act for the benefit of John Richey, of Allen county," was read the first time; and the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was disagreed to.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Maupin moved the following resolution:

Resolved, That from and after Monday next, the hour to which this House will regularly adjourn, shall be 9 o'clock A. M.

Which being twice read, was laid on the table.

On the motion of Mr. Cox, leave was given to bring in a bill to authorise the county court of Grayson county, to appoint trustees to the town of Millerstown, at the January or February court; and that Messrs. Cox, E. Watkins and Morris, prepare and bring in the same.

Mr. Sanders moved the following resolution, viz.

Resolved by the House of Representatives, That the committee on courts of justice, be instructed to enquire into the expediency of amending the laws regulating the jurisdiction of the General Court, and that they report by bill or otherwise.

Which being twice read, was adopted.

Mr. Underwood presented the petition of the trustees of the Southern College of Kentucky, praying legislative aid, to enable them to rebuild the College edifice, which has been burnt.

Which was received, read and referred to the committee of claims.

And then the house adjourned.

MONDAY, NOVEMBER 21, 1825.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz: An act to provide for the safe-keeping of Francis Erwin; an act for the benefit of the Mercer county court; and an act concerning the town of Henderson,

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Farmer presented the petition of Goodman Oldham, representing that he stands indicted in the Knox circuit court on a charge of perjury, and that in consequence of the undue influence of the prosecutor, he believes he cannot have a fair and impartial trial, and praying a change of venue.

Which was received, read and referred to the committee for courts of justice.

Mr. Hardin, from the committee of ways and means, to whom was referred "a bill to alter the mode of taking in lists of taxable property," made the following report:

The committee of ways and means have had the bill entitled "an act to alter the mode of taking in lists of taxable property," under consideration, and report:

That according to the present mode of taking in lists of taxable property, the sum of $8,233 50, was paid the commissioners for the year 1825. In the estimates for the year 1826, the amount is increased to $8,500. Should the bill pass in its present shape, the whole of that sum will be saved to the public treasury, and the business, in all probability, as well executed.

The committee are of opinion, that an additional section ought to be added to the bill, making it the duty of the commissioner to value the property taxed, instead of the owner or person giving in the same, and that, if required, the person giving in his property, should, on oath, be compelled to answer questions in relation to its situation and value, to enable the commissioner to form a correct statement.

The committee are also in favor of adopting the last section of the bill, which repeals the law of last session, directing property to be valued in Commonwealth's paper. The fluctuation of the value of that paper is such, that it renders it impolitic, to make that the standard of valuation. The same commissioner would have, in many instances, to put a different value on property, at different times, owing to its sudden appreciation and depreciation, and in different counties, a different standard of valuation would be adopted, owing, in part, to the uncertainty of the value of the paper.

There are other considerations which have operated upon the committee. It is believed, that it is a truth so undeniably correct, that in politics, it ought to be considered as a maxim, that the laws should be so made, that all persons, who are to be governed by them, of ordinary capacity, can fully comprehend their meaning.

Last session, the bill passed altering the mode of valuing property, as a means of increasing the taxes, by nearly doubling them, at the same time, professing only to equalize them, which, as it

related to the people, was disingenuous and deceptious. The people have a right to know what is done by their representatives, and they ought never to be imposed upon by an indirect and left handed plan of increasing their burthens. If they are to be made hewers of wood and drawers of water, to support the extravagance of a set of men, tell them so, and then they will decide, whether they desire the continuance of such task-masters.

Another maxim which, in a republic, ought ever to be observed; when the Legislature use the people's money, take it directly, so they can both see and feel the measure, and never intercept it before it reaches the public treasury.

The amendment proposed by said committee to said bill, was then concurred in, and the said bill as amended, ordered to be engrossed and read a third time to-morrow.

Mr. Nuttall, from the select committee appointed for that purpose, reported, "a bill to compel Physicians to licentiate," which was received and read the first time as follows, viz:

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the members of the Legislature from each judicial district of this State, shall nominate experienced physicians, from their respective districts, who shall be constituted a board of physicians therein, for the purpose of granting license to those to practise medicine, who may apply for the same.

Sec. 2. *Be it further enacted*, That no person or persons shall be permitted to practise in the profession of medicine, unless he or they shall be graduated physicians, or shall produce to the county court of the county in which he offers to practise, a license in writing, from under the hands and seals of or more of the board of physicians, as constituted by the first section of this act.

Sec. 3. *Be it further enacted*, That it shall be the duty of the board of physicians as aforesaid, or a majority thereof, to examine into the qualifications of all persons who may apply to them for that purpose; and after having done so, if they deem the person or persons so applying, well qualified to practise, they shall, without fee or reward, give to the applicant or applicants, as aforesaid, a license, as is provided for in the second section of this act: *Provided, however*, That nothing herein shall be construed to prevent any person or persons residing in one district, from applying to any board as aforesaid, within the Commonwealth of Kentucky, as he or they may think expedient.

Sec. 4. *Be it further enacted*, That any person or persons, who shall presume to practise medicine contrary to the provisions of this act, upon conviction thereof, shall be liable to be amerced in the sum of five hundred dollars, to be recovered by action of debt, in any of the courts within this Commonwealth, having jurisdiction of the same, one half to be appropriated to the use of the in-

former, and the other half to the lessening of the levy of the county in which any judgment as aforesaid may be rendered.

Sec. 5. *And be it further enacted*, That no person or persons shall be permitted to collect by law, any fees or charges, either by note or account, given or due for medical services, unless such person or persons shall have complied with the requisitions of this act.

This act is to take effect and be in force, from and after the first day of July next.

And the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon, by Messrs. Nuttall and M'Connell, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Blackburn, Breckinridge, Brown, Carter, Chenowith, Coleman, Cowan, Crittenden, Daniel, Dyer, Farmer, Gibson, Hall, Hansford, Hardin, Harvey, James, Maupin, Napier, Nuttall, Owsley, Perrin, Prince, Samuel, Sanders, Slaughter, Spalding, Timberlake, Thomasson, Waddell, Walker, B. E. Watkins, Wilcoxen, Wilson and Yantis—37.

NAYS—Messrs. John J. Allin, Bainbridge, Barbee, Bruce, Bruton, Clay, Coombs, Cox, Davis, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Gordon, Grundy, Hanson, Haskin, Lackey, Lee, Marshall, Martin, Mayes, M'Clanahan, M'Connell, Miller, M'Millan, Morris, Mullens, New, Owings, Porter, Skyles, Sterrett, Street, Robert Taylor, Z. Taylor, Thomas, Turner, Underwood, Wade, E. Watkins, Wingate, A. White and S. White—47.

Mr. Hall, from the select committee to whom was referred a bill to authorise James Lindsey to build a dam across Green River, reported the same without amendment.

The question was then taken on engrossing the said bill and reading it a third time, which was decided in the negative, and so the said bill was rejected.

Mr. Crittenden presented the petition of Daniel Dougherty, representing that his uncle, Winroe Brown, dec'd. a native of Ireland, was entitled to 4,666 2-3 acres of land, granted him in consideration of his services as an officer during the revolutionary war, and shortly thereafter, departed this life without children or other relations who were citizens of the United States, and that the petitioner is the nearest male relative of the decedent, and has become a citizen of the United States, and praying that a law may pass to vest in him the Commonwealth's right of escheat in and to the lands aforesaid.

Which was received, read and referred to the committee for courts of justice.

Mr. Haskin moved the following resolution, viz:

Resolved, That a select committee be raised and instructed to receive the portrait of General Lafayette, from the artist, Mr. Jouitt, and place it in such situation in the representative chamber, and with such protection by railing or otherwise, as shall exhibit it to advantage without being liable to injury.

Which being twice read, was adopted; and Messrs. Haskin, Breckinridge and Crittenden appointed a committee pursuant thereto.

Leave was given to bring in the following bills:

On the motion of Mr. Hanson—1. A bill to punish slaves for certain offences.

And on the motion of Mr. M'Millan—2. A bill for the benefit of Thomas Williams, of Monroe county.

Messrs. Hanson, Wade, Morris and Evans, were appointed a committee to prepare and bring in the first; and Messrs. M'Millan, Miller and Owsley, the second.

On the motion of Mr. Perrin,

Ordered, That the vote by which a bill from the Senate, entitled, "an act for the benefit of John Ritchey, of Allen county," was rejected, be reconsidered; and that Mr. Perrin request leave of the Senate to withdraw the report made on said bill.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Underwood—1. A bill to amend the law concerning the valuation of property taken under execution.

By Mr. Mullens—2. A bill allowing justices of the peace a copy of the Digest and the Statutes of Kentucky, in certain cases.

By Mr. Cox—3. A bill to authorise the county court of Grayson to appoint Trustees to Millerstown.

And by Mr. M'Clanahan—4. A bill for the benefit of the heirs of George Snap, deceased.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the second bill having been dispensed with, the said bill was committed to a select committee of Messrs. Blackburn, Mullens and Hardin.

And the rule of the house, constitutional provision and second and third readings of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Cox carry the said bill to the Senate and request their concurrence.

Ordered, That the public printers forthwith print 150 copies of the first bill, for the use of the members of this house.

An engrossed bill entitled "an act to establish the Cumberland Hospital," was read a third time, and the blanks therein filled.

Ordered, That the said bill be laid on the table.

Mr. Crittenden moved the following resolution:

Resolved, That the committee of claims be instructed to enquire into the expediency and justice of making provision by law for de-

fraying the expence incurred in the erection of monuments, according to the order of the Legislature, over the bodies of the late Governors Madison and Greenup, and of the late Col. Dollerhide, Senator from the counties of Pulaski and Wayne, and of making compensation to the Superintendent of the work, Thomas S. Page, and that the committee report by bill or otherwise.

Which being twice read, was adopted.

And then the house adjourned.

TUESDAY, NOVEMBER 22, 1825.

Mr. M'Connell presented the petition of James Howe, praying that a law may pass to authorise him to build a dam across Little Sandy river, for the purpose of working a water grist mill.

Mr. Lackey presented the petition of Samuel Mann, praying a divorce from his wife, Nancy Mann.

Also, the petition of Sarah P. Seinar, praying a divorce from her husband, David P. Seinar.

Mr. Skyles presented the petition of Polly Lindsey, praying a divorce from her husband, William Lindsey.

Mr. Ward presented the petition of Stephen G. Marshall, administrator of Hugh Emison, deceased, praying that a law may pass to authorise a sale of a part of the real estate of the decedent, and the application of the proceeds thereof, to the payment of the debts of said decedent.

Mr. Chenowith presented the memorial of the justices of the county court of Meade, praying the interference of the Legislature with the Executive, in aid of a nomination made by them of a justice of the peace for said county.

Mr. M'Millan presented the petition of the executors of Joseph Moody, deceased, praying that a law may pass to authorise a sale of a part of the real estate of the decedent, and that the proceeds thereof may be applied to the discharge of the debts of the decedent

And Mr. Dyer presented the petition of sundry citizens of the counties of Breckinridge, Ohio and Grayson, praying for the formation of a new county, out of a part of each of said counties.

Which petitions were severally received, read and referred; the first and eighth to the committee of propositions and grievances; the second, third and fourth to the committee of religion; and the fifth, sixth and seventh to the committee for courts of justice.

On the motion of Mr. Nuttall,

Ordered, That leave be given to bring in a bill to add an additional constable to Henry county; and that Messrs. Nuttall, Samuel, Thomasson and Stephens, be appointed a committee to prepare and bring in the same.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Underwood—1. A bill to amend the law in relation to the trial of the right of property levied on by execution.

By Mr. Watkins (of Whitley)—2. A bill to alter the mode of disposing of the lands of this Commonwealth.

By Mr. Dyer—3. A bill to amend the penal laws of this Commonwealth.

By Mr. Hanson—4. A bill to punish slaves for certain offences.

And by Mr. Napier—5. A bill for the benefit of Robert Davis.

Which bills were severally received and read the first time, and ordered to be read a second time.

Mr. Haskin read and laid on the table, a preamble and resolutions relative to the Rules adopted by the Court of the United States for the Kentucky District, and presenting to Congress a memorial on the subject of repealing the law granting said courts the power of adopting said Rules.

Ordered, That the said preamble and resolutions be committed to a committee of the whole house on the state of the Commonwealth; and that the public printers forthwith print 150 copies of said preamble and resolutions, for the use of the members of this house.

A message was received from the Senate, announcing the passage of bills of the following titles: An act to take the sense of the good people of this Commonwealth, as to the expediency of calling a convention; an act for the benefit of Sampson Trammel; an act for the formation of the county of Russell, out of the counties of Adair, Cumberland and Wayne; an act for the appropriation of the surplus fund of the militia fines, in the hands of the paymaster of the 70th regiment Kentucky militia; an act to repeal the 4th section of an act to amend an act regulating endorsements on executions, approved December 21st, 1821; an act to provide for the distribution and preservation of the public law books; an act for the benefit of Cassender Abrell, widow of Jacob Abrell, deceased, and the heirs of James Francis Moore, deceased; and an act to authorise lotteries for the purpose of raising money to erect bridges across Licking river at Claysville in Harrison county, and at the mouth of Licking.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on the 21st instant, approve and sign enrolled bills which originated in the House of Representatives, entitled, an act concerning the town of Henderson, an act to provide for the safe-keeping of Francis Erwin, and an act for the benefit of the Mercer county court.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Breckinridge moved the following preamble and resolution:

Whereas an act was passed at the last session of the General Assembly, approved on the day of 182 purporting to re-organize the Court of Appeals of this Commonwealth, under the provisions of which, the Governor nominated, and by the advice and consent of the Senate, appointed certain individuals, who have assumed the powers of the Court of Appeals, notwithstanding there was already in existence a Court of Appeals, unaffected by said act, and whose officers, having never been removed in either of the modes prescribed by the constitution, refused to respect or obey the above recited act, as being totally repugnant to the supreme fundamental law, both in its provisions and by the manner of its passage through this house; but nevertheless, a certain William T. Barry, James Haggin, John Trimble and Rezin Davidge, appointed as already shown, and assuming the authority of the supreme judicial tribunal of this Commonwealth, among other acts, violently dispossessed the clerk of the Court of Appeals of many of the papers and records of his office, and causing them to be forcibly detained by an individual, representing himself as their clerk, proceeded to decide, as an appellate court, upon legal questions affecting the rights and liberties of the good people of this Commonwealth, whilst the constitutional Court of Appeals claimed to be the only tribunal which could lawfully exercise such powers: And whereas, in this alarming dilemma, there existed no other tribunal to whose decision this great constitutional question could be referred, but the sovereign people, the ultimate arbiters and sole origin of all power: And whereas, by universal consent, this matter was so referred, and they have, after the most solemn investigation, emphatically decided, that the said act was contrary to the constitution and void, and that all acts pretending to be done, and all offices held by virtue of it, are of necessity void also, which this house, declaratory of the deliberate convictions of this people, has clearly reiterated, by its resolutions, passed on the day of this instant: And whereas, although this decision, thus solemn and final, should have forever set at rest this painful and peculiar subject, and restored peace and union to a distracted country; yet one department of this government having refused to regard this awful mandate of his country, and those who constituted one party to the issue which was joined at its august bar, and who claim to be another organ of the laws, still pretending to exercise powers which have thus often, and by these high authorities, been utterly denied to reside in them, thereby rendering it the imperious duty of this house, by a signal interposition, and the use of all the means properly under its control, to arrest at once an outrage destructive to social order, and dangerous to civil liberty: Therefore,

Be it resolved, That the committee on courts of justice be instructed to ascertain what obstacles exist to impede the Court of

Appeals in the regular discharge of their official duties; to examine into their nature and extent, and how and by whom created; and that they report to this house the most effectual means for their immediate removal, and the re-establishment of the government in peace; and that said committee, more effectually to accomplish the objects herein designated, have power to send for persons, papers and records.

Which being twice read, it was then moved and seconded to lay the said resolution on the table; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Chenowith and Breckinridge, were as follows:

YEAS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, James, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—39.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breckinridge, Brown, Bruce, Bruton, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Grundy, Hansford, Hanson, Harvey, Hutchison, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—53.

And then the house adjourned.

WEDNESDAY, NOVEMBER 23, 1825.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz: An act to amend an act entitled "an act for the benefit of the widow and heirs of Wilson Pickett, deceased, and for the executors and devisees of Azariah Davis, deceased," approved February 4th, 1817; an act to transfer the bank stock of the Caledonia Academy, and for other purposes; and an act allowing the appointment of an additional constable in Bourbon county.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

1. Mr. Fletcher presented the petition of Saunders P. Day, praying a divorce from his wife, Leah, late Leah Catlett.

2. Mr. Spalding presented the petition of Elizabeth Riley, praying a divorce for her husband, Michael Riley.

3. Mr. Cox presented the remonstrance of sundry citizens of Grayson county, against the passage of a law to form a new county out of parts of the counties of Breckinridge, Ohio and Grayson.

4. Mr. Logan presented the petition of John Wells, praying compensation for the apprehension of Philemon Plumer, on a charge of horse-stealing.

5. Mr. Underwood presented the memorial of Robert Triplett, the agent of the State of Virginia, relative to the location of the unsatisfied warrants held by the officers and soldiers of the Virginia State and continental lines, (or their representatives,) on the vacant lands west of the Tennessee river.

6. Mr. Brown presented the petition of Margaret Waters, praying that a law may pass to authorise the sale of a negro slave belonging to the estate of her deceased husband, John Waters.

7. And Mr. M'Connell presented the petition of sundry citizens of Greenup county, praying that a law may pass to appropriate the muster fines in the hands of the paymaster of the 70th regiment, Kentucky militia, to the erection of a jail in said county.

Which petitions were severally received, read and referred; the 1st and 2d to the committee of religion; the 3d and 7th to the committee of propositions and grievances; the 4th to the committee of claims; and the 5th and 6th to the committee for courts of justice.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under their consideration the petition of James Howe, of Greenup county, praying for leave to erect a dam across Little Sandy river, at a place called the Black Ripple, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *is reasonable*.

Which being twice read, was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration the laws allowing compensation for wolf scalps, and report:

That in the year 1824, the sum of $1,933 was paid under and by the authority of those laws; that in 1825, the amount paid, is $1,482 50; from inquiry, the average amount paid for several years past, may be estimated at $1,800; and the like sum may be estimated as an annual charge upon the revenue, for several years to come, should said laws continue in force. Although some benefit may accrue from said laws to the people of this Commonwealth, yet, in the opinion of the committee, the benefits are not an equivalent for the annual sums disbursed on that account, particularly in the present embarrassed state of the Treasury. In addition to these considerations, the committee are induced to believe, that Kentucky has to pay frequently for wolves killed in our adjoining sister States. The committee report a bill.

The said bill was then read the first time, as follows:

A bill to repeal all acts and parts of acts allowing a compensation for killing wolves and for wolf scalps.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, all acts and parts of acts, allowing a compensation for wolf scalps and killing wolves, be, and the same are hereby repealed.

And the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon, by Messrs. Sterrett and M'Connell, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breckinridge, Bruton, Clay, Coleman, Crittenden, Evans, Ford, Gibson, Gordon, Green, Grundy, Hanson, Hardin, Harvey, Hutchison, Maupin, Morris, Payne, Reed, Sanders, Skyles, Robert Taylor, Thomas, Thomasson, True, Turner, Underwood, Waddell, Wade, Walker, E. Watkins, Woodson and Yantis—36.

NAYS—Messrs. James Allen, John J. Allin, Barbee, Brown, Bruce, Carter, Chenowith, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Dunlap, Dyer, Elliston, Farmer, Fletcher, Gaines, Hall, James, Lackey, Lee, Logan, Marshall, Martin, Mayes, M'Clanahan, M'Connell, M'Millan, Mullens, Napier, New, Nuttall, Owings, Owsley, Perrin, Porter, Prince, Samuel, Slaughter, Spalding, Stephens, Sterrett, Street, Tarlton, Richard Taylor, Z. Taylor, Timberlake, Ward, B. E. Watkins, Wilcoxen, Wilson, Wingate, A. White and S. White—56.

Mr. Blackburn, from the select committee to whom was referred a bill allowing justices of the peace a copy of the Digest and of the Statutes of Kentucky, in certain cases, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Mullens carry the said bill to the Senate and request their concurrence.

Mr. Fletcher, from the select committee to whom was referred a bill to revive and continue in force an act entitled "an act further to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes," reported the same with amendments; which being twice read, were concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time to-morrow.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill giving further time to the trustees of the Hart Seminary, to list their lands for taxation.

By Mr. Underwood, from the committee for courts of justice—2. A bill for the benefit of Goodman Oldham.

And by Mr. Sterrett—3. A bill further to regulate the election precinct in Breckinridge county.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first and third bills having been dispensed with, the first was committed to a select committee of Messrs. M'Connell, Coombs and Hardin, and the third was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Sterrett carry the said bill to the Senate, and request their concurrence.

A message was received from the Senate, announcing the passage of a bill entitled "an act to provide for binding out poor free children of colour;" and the adoption of resolutions of the following titles: A resolution requesting information of the Auditor, as to the amount of money due this Commonwealth, for the sale of vacant and unappropriated land; and resolutions raising joint committees to examine and report the situation of the Bank of the Commonwealth and branches.

Mr. Woodson read and laid on the table the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, by a joint vote of both houses, on the day of proceed to the election of a Treasurer, Public Printer, a President and Directors of the Bank of Kentucky, and a President and Directors of the Bank of the Commonwealth of Kentucky.

The house resumed the consideration of the preamble and resolution moved by Mr. Breckinridge on yesterday; which being again read and some discussion had thereon,

The house then adjourned.

THURSDAY, NOVEMBER 24, 1825.

Mr. James presented the petition of Absalom and Polly Stokes, praying a divorce from each other.

Mr. Watkins (of Whitley) presented the petition of sundry citizens of Whitley county, praying that a law may pass to appropriate a sum of money sufficient to open a road from the head of the

Sinking Valley in Rockcastle county, to lead through the county of Whitley, in the direction to Knoxville, in Tennessee.

Mr. Lee presented the petition of the citizens of Flemingsburg, praying that the laws in relation to paving the streets of said town, may be amended, and that the act of the last session, which takes away the fines and forfeitures accruing in said county, from the county seminary, may be repealed.

And Mr. Logan presented the petition of Robert Pollard and Benjamin R. Pollard, praying the passage of a law to confirm a sale made by them of a negro man slave deeded in trust to Benjamin R. Pollard by Robert Pollard, for the benefit of the wife and children of said Robert Pollard.

Which petitions were severally received, read and referred; the 1st to the committee of religion; the 2d and 3d to the committee of propositions and grievances; and the 4th to the committee for courts of justice.

The Speaker laid before the house the annual report of the Trustees of the Kentucky Institution for the tuition of the Deaf and Dumb; which was received and read.

Ordered, That the said report be referred to a select committee of Messrs. Green, Duke, Breckinridge, Mayes, Thomasson, Wade, Haskin, Coleman, Gaines and Barbee.

Mr. Allin, from the joint committee of enrolments, reported that the committee did, on yesterday, lay before the Governor, for his approbation and signature, the bills signed by the Speakers of both houses on yesterday.

Mr. Mayes, from the committee of religion, made the following report:

The committee of religion have, according to order, had under consideration, sundry petitions to them referred, and have come to the following resolutions:

1. *Resolved*, That the petition of Polly Lindsay, praying a divorce from her husband, William Lindsay, *be rejected*.

2. *Resolved*, That the petition of Saunders P. Day, praying a divorce from his wife, Leah Day, *be rejected*.

3. *Resolved*, That the petition of Elizabeth Riley, praying a divorce from her husband, Michael Riley, *be rejected*.

4. *Resolved*, That the petition of Nancy Alderson, praying a divorce from her husband, William H. Alderson, *be rejected*.

5. *Resolved*, That the petition of Joseph Hargrove, praying a divorce, *be rejected*.

6. *Resolved*, That the petition of Sarah P. Seinar, praying a divorce from her husband, David P. Seinar, *be rejected*.

7. *Resolved*, That the petition of Samuel Man, praying a divorce from his wife, Nancy Man, *be rejected*.

Which being twice read, was concurred in.

Mr. Mayes, from the same committee, made the following report:

The committee of religion, to whom was referred an act authorising the collection of certain moneys due to the first Presbyterian Church in Louisville, together with the Governor's objections thereto, have, according to order, had the same under consideration, and have come to the following resolution:

Resolved as the opinion of this committee, That the said act does not, nor does any provision thereof, violate either the 1st, 3d or 4th section of the tenth article of the constitution of Kentucky, nor any other article thereof.

Which being twice read, was laid on the table.

Mr. Thomasson moved the following resolution:

Resolved, That the committee of ways and means be instructed to enquire into the expediency and practicability of altering by law, the manner of discharging claims against this Commonwealth, so that each county shall be accountable for such claims as shall accrue within their respective limits; and that they have leave to report by bill or otherwise.

Which being twice read, was adopted.

Mr. Hanson read and laid on the table the following resolution:

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That when the Legislature adjourn on the 10th day of December next, they will adjourn without day.

On motion of Mr. Coleman,

Ordered, That leave be given to bring in a bill to reduce into one and amend the laws relative to conveyances; and that the committee for courts of justice prepare and bring in the same.

On the motion of Mr. New,

Ordered, That leave be given to bring in a bill further to amend the laws in relation to lunatics; and that Messrs. New, Underwood, Gordon and Sanders, be appointed a committee to prepare and bring in the same.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to authorise James Howe, to build a dam across Little Sandy river.

2. A bill to authorise Charles Kennedy to erect a mill on the Kentucky river.

And by Mr. M'Millan—3. A bill to establish election precincts in Monroe county.

Which bills were severally received and read the first time, and the first and third ordered to be read a second time.

And the question being taken on reading the second bill a second time, it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second reading of the first and third bills having been dispensed with, the first was ordered to be engrossed and read a third time, and the third was committed to a select committee of Messrs. Walker, M'Millan, Watkins and Wilcoxen.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. M'Connell carry the said bill to the Senate and request their concurrence.

A message was received from the Senate, announcing the passage of bills of the following titles: An act for the benefit of Elizabeth Powell; an act further to regulate the debt due the Commonwealth for the sale of vacant lands; an act to establish the town of Athens; an act for the benefit of Paul Barnett; and an act to alter the mode of taking in lists of taxable property.

The house resumed the consideration of the preamble and resolution offered by Mr. Breckinridge; and the question being taken on the adoption thereof, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Spalding and Sterrett, were as follows, to wit:

YEAS–Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—58.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—38.

And then the house adjourned.

FRIDAY, NOVEMBER 25, 1825.

Mr. Gordon presented the petition of sundry citizens of Caldwell county, praying that a part of said county may be added to the county of Livingston.

And Mr. Ward presented the petition of the commissioners of the Turnpike road, leading from Georgetown to Cincinnati, praying that a law may pass to amend the several acts on that subject, so far as respects the duties to be performed by said commissioners.

Which petitions were severally received, read and referred, the first to the committee of propositions and grievances, and the second to a select committee of Messrs. Ward, Tarleton, Mullens, Elliston, Gaines and Stephens.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means, in obedience to an order of the house, have had under consideration the situation and expenditures of the Bank of Kentucky, and report thereupon:

The salaries of the officers are as follows:

President,	$2,000
Cashier,	1,400
First Clerk,	1,200
Second and third clerks, $800 each, making	1,600
Fourth and fifth clerks, $600 each, making	1,200
Three Agents at $1,400 each, besides their travelling expences, making	4,200
Porter,	250

Total, exclusive of the travelling expences of the agents, $11,850

The committee are of opinion, the expences of the institution can be so reduced as to stand as follows:

President,	$1,500
Cashier,	1,200
First Clerk,	1,000
Second Clerk,	800
Third Clerk,	800
Agents $1000 each, making	3,000
Porter,	250

Total expences after the proposed reductions are made, $8,550

The committee are of opinion that three clerks in that Bank are sufficient to do the business, and that the travelling expences of the Agents ought not to be allowed. To carry the views of the committee into effect, they report a bill.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to prohibit the appropriation of a part of the vacant land of this commonwealth.

By Mr. Hardin, from the committee of ways and means—2. A bill to regulate the Bank of Kentucky.

By Mr. M'Millan—3. A bill for the benefit of Thomas Williams.

By Mr. Fulton—4. A bill to authorise the county court of Nicholas to permit gates to be put across the State road between Joseph Morgan's and Benjamin Lawrence's.

Which bills were severally received and read the first time, and the first, second and fourth bills ordered to be read a second time.

And the question being taken on reading the third bill a second time, it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second reading of the second and fourth bills having been dispensed with, the second was committed to a committee of the whole house, and the fourth to a select committee of Messrs. Owings, Fulton, M'Clanahan and Bruce.

A message from the Senate, by Mr. Ewing:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act to repeal an act entitled an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals, and also, an act entitled an act to regulate the salaries of the Judges of the Court of Appeals and for other purposes," with amendments, in which they request the concurrence of this house.

And then he withdrew.

The said amendments were then taken up and read as follows, viz:

That so much of the third section of an act, entitled "an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals," approved December the 24th, 1824, as creates the office of a fourth Judge of the said Court of Appeals, be, and the same is hereby repealed.

§ 2. *Be it further enacted*, That so much of the first section of "an act to regulate the salaries of the judges of the court of appeals, and for other purposes," approved January 6th, 1825, as allows said judges two thousand dollars per annum each, be, and the same is hereby repealed; and the said judges provided for by said section, shall hereafter, each receive an annual salary of twelve hundred dollars, which shall be paid to them and their successors in office, quarter yearly, out of any money receivable in the public revenue.

§ 3. That in case of any vacancy in the office of judges of the court of appeals, the said court shall hereafter consist only of a chief justice and two associates, who shall be commissioned generally, as judges of said court, and not as second and third judges.

It was then moved and seconded, that this house disagree to the said amendments of the Senate; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Breckinridge and Cox, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy,

Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—57.

NAYS—Messrs. J. J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarleton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—39.

Ordered, That Mr. Hardin inform the Senate thereof.

Mr. Maupin, from the select committee to whom was referred "a bill to punish swindling in the sale of land," reported the same without amendment.

Ordered, That the said bill be recommitted to the committee for courts of justice.

Mr. Marshall read and laid on the table the following preamble and resolutions:

The act to repeal the act organizing the Court of Appeals, and to re-organize a Court of Appeals, has, in its effects, paralized the operations of the supreme judicial tribunal of this State, and in consequence of the disagreements which exist between the two branches of the Legislature, there can be indulged no rational prospect of repealing the aforesaid act. The novel spectacle is now exhibited, of two Courts of Appeals, each contending for the supremacy, and each adhered to by large proportions of the community, whilst neither is received by the whole people as the supreme constitutional court of the commonwealth. This contest between the two courts cannot be decided, unless by the interference of the Legislature, which cannot be anticipated as long as the present incumbents of the two departments of that branch of the government continue in office; in the mean time, the good people of this commonwealth have no supreme judicial tribunal, possessing an indisputable and unquestionable claim to all the necessary powers for the administration of justice. They have no avenue open to them, through the medium of which, they can have their grievances redressed, their lives, their property and their liberties protected. There exist, in the minds of the people of this State, so much jealousy and distrust of the new Court of Appeals, spoken into existence by the act aforesaid, and at this time pertinaciously sustained in the exercise of their judicial power, by his excellency the Governor, the Lieutenant Governor, a majority of the Senate and minority of the House of Representatives, that it is believed the people of this State can never be replaced in the safe enjoyment of their rights and privileges, until this court, thus erected, has been abolished, and the constitutional court unopposed in the exercise of their legitimate and necessary powers. On the other hand, it is thought by his excellency the Governor, the Lieutenant Governor, the

minority of the House of Representatives and the majority of the Senate, that the new court is the constitutional Court of Appeals, and should be sustained by the good people of this commonwealth. Whilst all the departments of the government, the Executive, the Legislative and the Judicial, unite in recognizing the people of this State as the supreme and ultimate arbiters of all questions involving their rights and privileges, that the people are the source of all power, and on an occasion like the present, when the collisions between the several departments of the government, threaten in their train of consequences, anarchy, confusion and civil war, there should be an immediate appeal to their judgments for a final settlement of this momentous controversy; for the purpose, therefore, of deciding this great political difference, so dangerous to the peace, the lives, the liberties and the property of the good people of this commonwealth, and in as much as that purpose can be effectuated in no other mode than by an immediate appeal to the good people of this State, the righteous judges in all cases relating to their most essential interests: Therefore,

Be it resolved, That it is the opinion of this General Assembly, that the crisis has arrived which will induce every lover of his country to surrender and sacrifice to the public good, every consideration of a personal or selfish character; and that, therefore, the Governor, Lieutenant-Governor, each member of the Senate and of the House of Representatives, and the Judges of the old and of the new Court of Appeals, ought to resign their respective offices, and thereby put it in the power of the people to settle this question according to their own will, and to restore peace and harmony to a distracted country.

2. *Resolved*, That a joint committee of four from the Senate and eight from the House of Representatives, be raised for the purpose of corresponding with the Governor, the Lieutenant-Governor, and the Judges of the old and of the new Court of Appeals, on this subject, and thereby to ascertain whether this mode of settling this great question will receive their approbation and consent.

3. *Resolved further*, That all the resignations aforesaid, except the Lieutenant-Governor, ought to take place on or before the day of next; and that in corresponding with the different officers aforesaid, the committee will ascertain from each one distinctly, whether he will resign at that time; and that the Lieutenant-Governor will resign his office on the day of ; previous to which time, however, he will, as acting Governor, issue writs of election to fill the vacancies in each house of the Legislature, occasioned by the resignations aforesaid, and that he will issue his proclamation, convening the Legislature on the day of being the day after his resignation aforesaid.

A bill for the benefit of Goodman Oldham, was read a second time, and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

The yeas and nays being required on the passage of said bill, by Messrs. Lee and Perrin, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Barbee, Breck, Breckinridge, Bruce, Bruton, Carter, Clay, Coleman, Cowan, Cunningham, Daniel, Davis, Dunlap, Dyer, Elliston, Fletcher, Fulton, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Connell, M'Millan, Morris, Mullens, Nuttall, Owings, Owsley, Porter, Prince, Sanders, Slaughter, Spalding, Stephens, Street, Tarlton, Richard Taylor, Z. Taylor, Timberlake, Thomas, Turner, Underwood, Waddell, Wade, Walker, B. E. Watkins, E. Watkins, Wilson, Wingate, A. White, S. White and Yantis—68.

NAYS—Messrs. Blackburn, Brown, Chenowith, Coombs, Cox, Ford, Logan, Marshall, Miller, New, Perrin, Reed, Sterrett, Thomasson, True and Woodson —16.

Ordered, That Mr. Turner carry the said bill to the Senate, and request their concurrence.

A bill from the Senate, entitled "an act to take the sense of the good people of this commonwealth as to the expediency of calling a convention," was read the first time.

It was then moved and seconded to lay the said bill on the table; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Chenowith and Maupin, were as follows, viz:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruton, Carter, Clay, Cowan, Cox, Crittenden, Cunningham, Daniel, Dunlap, Dyer, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, Logan, Mayes, M'Connell, Morris, Napier, New, Owings, Reed, Sanders, Slaughter, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Walker, B. E. Watkins, Wilson, Wingate, A. White, Woodson and Yantis—53.

NAYS—Messrs. James Allen, John J. Allin, Barbee, Bruce, Chenowith, Coleman, Coombs, Davis, Duke, Elliston, Fletcher, Fulton, Gaines, Hall, Haskin, James, Lackey, Lee, Marshall, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Nuttall, Owsley, Perrin, Porter, Prince, Samuel, Skyles, Spalding, Stephens, Sterrett, Thomas, Thomasson, Underwood, Wade, E. Watkins and S. White—41.

The house took up the resolution reported on yesterday from the committee of religion, to whom was referred an enrolled bill entitled "an act authorising the collection of certain moneys due the first Presbyterian Church in Louisville," which being twice read, was concurred in.

The objections of the Governor, were then read as follows:

Gentlemen of the Senate,

Having examined and considered the bill entitled "an act authorising the collection of certain moneys due to the first Presbyterian Church in Louisville," presented to me on the 7th of Janua-

ry last, I now return the same to the Senate, in which it originated, with the following objections:

It gives to the first Presbyterian Church in Louisville, privileges and capacities not enjoyed or possesed by any other religious society or congregation in the State; and therefore violates the first, third and fourth sections of the tenth article of the constitution, which forbid the grant of exclusive privileges, except in consideration of public services; which also forbid compulsion to attend, erect or support any place of worship, and which prohibit the enlargement or diminution of the civil rights of any citizen, on account of his religion.

One section of the bill gives to the trustees of the church a right hereafter to sue and be sued in any court of the Commonwealth. This virtually and substantially makes them a corporation in law, thereby giving this church a preference over other religious societies, incompatible with the letter and spirit of the constitution.

JOSEPH DESHA.

November 8th, 1825.

The question was then put on the passage of said bill, the Governor's objections notwithstanding, which was decided in the affirmative.

The yeas and nays being taken thereon, pursuant to the provisions of the constitution, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Brown, Bruce, Coleman, Coombs, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Elliston, Farmer, Ford, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Lackey, Martin, Mayes, New, Nuttall, Owings, Perrin, Prince, Reed, Skyles, Spalding, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, Turner, Underwood, Waddell, Wade, Walker, B. E. Watkins, Wilson, Wingate, A. White, S. White and Yantis—61.

NAYS—Messrs. John J. Allin, Bruton, Clay, Chenowith, Daniel, Fletcher, Gaines, Gibson, Gordon, Haskin, Lee, Maupin, M'Clanahan, M'Connell, Miller, M'Millan, Morris, Mullens, Napier, Owsley, Samuel, Sanders, Slaughter, Stephens, E. Watkins and Woodson—26.

Ordered, That Mr. Brown inform the Senate thereof.

And then the house adjourned.

SATURDAY, NOVEMBER 26, 1825.

Mr. Elisha M'Cormas, a member returned to serve in this house from the counties of Lawrence and Morgan, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this State, and took his seat.

Mr. Clay presented the petition of Joseph Layton, of Daveiss county, praying that a law may pass to release him from his liabil-

ity as security in the administration bond executed by Seely Crabtree, as administratrix of her deceased husband, Jesse Crabtree.

Mr. Cosby presented the petition of Eleanor Best, administratrix of Josiah E. Best, deceased, praying that a law may pass to confirm a sale made by her of a negro man slave, the property of said estate.

Mr. Walker presented the petition of Robert Love, praying a divorce from his wife Rusha, late Rusha Brewer.

Mr. Coleman presented the petition of sundry citizens of this Commonwealth, praying that a law may pass to appropriate a sum of money for the purpose of opening and establishing a State Road to lead from the mouth of Holt's creek in Bracken county, through Falmouth, to the town of Cynthiana, in Harrison county.

And Mr. Logan presented the petition of sundry citizens living in the disputed boundary between the counties of Shelby and Spencer, praying that the last line run and marked, as the boundary line between said counties, may be established.

Which petitions were severally received, read and referred; the 1st and 2d to the committee for courts of justice; the 3d to the committee of religion; and the 4th and 5th to the committee of propositions and grievances.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of the citizens of Flemingsburgh, praying that a law may pass to authorise the trustees of the town to compel the citizens owning the ground on either side of Walnut Alley, to pave the same opposite their respective lots, *is reasonable*; and that so much of said petition as prays that the fines and forfeitures in the county of Fleming may be applied to the use of their Seminary, *be rejected*.

Resolved, That the petition of the citizens of Ohio, Grayson and Breckinridge, praying that a new county may be established out of part of their several counties, *be rejected*.

Resolved, That the petition of the citizens of Greenup county, praying for the appropriation of the money in the hands of the Paymaster for the 70th Regiment of Kentucky Militia, and that the same may be applied to the building a jail in Greenup county, *is reasonable*.

Resolved, That the petition of a part of the citizens of Caldwell county, praying that they may be added to Livingston county, *is reasonable*.

Which being twice read, the first, third and fourth resolutions were concurred in, and the second laid on the table.

Ordered, That the said committee prepare and bring in bills pursuant to the first, third and fourth resolutions.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee for courts of justice have, according to order, had under consideration, sundry petitions to them referred, and have come to the following resolutions, to wit:

Resolved, That the petition of Will. Moody and Abram Eugart, praying that a law may pass authorizing them to sell some lands owned by the heirs of Joseph Moody, deceased, *be rejected*.

Resolved, That the petition of Robert Pollard and Benjamin R. Pollard, praying that a law may pass confirming the sale of a negro made by said Benjamin, and which he held in trust for the use of the wife and children of said Robert, *be rejected*.

Resolved, That the petition of Margaret Waters, praying for the passage of a law authorising her to make sale of a negro boy owned by her children, *be rejected*.

Resolved, That the petition of S. G. Marshall, administrator of Hugh Emison, deceased, praying for the passage of a law authorising him to sell a portion of the estate belonging to the heirs of said Emison, deceased, *be rejected*.

Which being twice read, was concurred in.

Mr. Underwood, from the committee for courts of justice, to whom was referred a resolution from the Senate requiring information of the Receiver of public moneys west of the Tennessee river, reported the same with an amendment, which being twice read, was concurred in.

Ordered, That Mr. Underwood inform the Senate thereof, and request their concurrence in said amendment.

Mr. Underwood, from the committee for courts of justice, to whom was referred a bill to punish swindling in the sale of lands, reported the same with an amendment, which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time on Monday next.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration, a resolution directing said committee to enquire into the expediency of preparing and bringing in a bill to make it the duty of each county within this Commonwealth, to liquidate and pay off the expences of government, accruing in each county respectively, and have come to the following resolution thereupon:

Resolved, That it is inexpedient to introduce said bill.

Which being twice read, was concurred in.

Mr. Hardin, from the same committee, offered the following resolutions:

Resolved, That the Governor be respectfully requested to furnish this house with a statement of the sum or sums of money drawn by him from the public treasury, accompanied with a bill of particulars, under and by virtue of resolutions of the General Assembly, entitled "resolutions requesting the Governor to invite General Lafayette to visit the State of Kentucky," and the manner in which the same was drawn from the Treasury.

Resolved, That the Secretary of State report to this house the number of books purchased by him by virtue of the act, entitled "an act authorising the purchase of certain law books," their titles and quality, of whom purchased, and the prices, and whether said books were purchased at the lowest price that could be had.

Resolved, That the Reporter of the decisions of the Court of Appeals, lay before this house the sum or sums of money drawn by him from the public treasury, for preparing and publishing said Reports; the number of pages reported, and the number of decisions which he is now preparing to report, and the court that gave the decisions.

Which being twice read, were adopted.

The house took up a resolution from the Senate, for raising joint committees to examine the Bank of the Commonwealth and Branches; which being twice read, was concurred in, and Messrs. Marshall, Owings, Gaines, White, (of Green,) Tarlton and Brown, were appointed a committee on the part of this house, pursuant to the second resolution.

Ordered, That Mr. Yantis inform the Senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Underwood, from the committee for courts of justice—1. A bill to authorise Narcissa to contract for her freedom; and 2. a bill to amend the several acts respecting the Turnpike road from the mouth of Triplett's Creek to Big Sandy.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the first was ordered to be engrossed and read a third time, and the second was committed to a select committee of Messrs. M'Connell, Lackey, Marshall and Duke.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hardin carry the said bill to the Senate and request their concurrence.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, Mr. Yantis in the chair, and after some time spent therein, the Speaker resumed the chair, and Mr. Yantis reported that the committee had, according to order, had under consideration a bill further to regulate the salaries and debts due by this Commonwealth; a bill further to regulate the salaries of some of the officers of government; and a bill further to regulate the Bank of the Commonwealth, and had gone through the same with amendments to the two latter bills, which he handed in at the clerk's table.

A message was received from the Senate, announcing the passage of a bill entitled "an act to amend an act authorising the sale of the vacant land between Walker's line and the latitude of 36° 30′ north, in the State of Tennessee, and for running and marking the latitudinal line."

And then the house adjourned.

MONDAY, NOVEMBER 28, 1825.

Mr. Robert Taylor presented the petition of the heirs and devisees of Arthur Fox, deceased, praying that a law may pass to authorise a sale of a part of the real estate of the decedent, for the purpose of discharging a debt due by said decedent.

And Mr. Cox presented the petition of sundry citizens of the counties of Hart, Hardin and Grayson, praying for the formation of a new county, out of a part of each of said counties.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; and the second to the committee of propositions and grievances.

Mr. Morris, from the committee of claims, made the following report:

The committee of claims have, according to order, had under consideration the petition of James Cavender, to them referred, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *be rejected*.

Which being twice read, was concurred in.

Mr. Cosby moved for leave to bring in a bill directing the sessions of the Court of Appeals to be holden at or near the centre of the State; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

The yeas and nays being required thereon, by Messrs. Cosby and Maupin, were as follows:

YEAS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Bruce, Chenowith, Coombs, Cosby, Cowan, Cox, Cunningham, Dyer, Farmer, Gordon, Hall, Hansford, Hardin, Haskin, James, Martin, Maupin, Miller, M'Millan, Morris,

New, Owsley, Porter, Prince, Skyles, Spalding, Sterrett, Z. Taylor, Wade, Walker, E. Watkins, Wilson and S. White—37.

NAYS—Mr. Speaker, Messrs. Blackburn, Breck, Brown, Bruton, Clay, Crittenden, Daniel, Davis, Duke, Dunlap, Ford, Gibson, Green, Lackey, Lee, Marshall, Mayes, M'Cormas, Mullens, Owings, Payne, Perrin, Reed, Samuel, Sanders, Stephens, Street, Robert Taylor, Timberlake, Thomas, True, Turner, Waddell, B. E. Watkins, Woodson and Yantis—37.

Mr. Chenowith moved for leave to bring in a bill prohibiting members of the Legislature from drawing pay for those days they are absent; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Bainbridge and Perrin, were as follows, viz.

YEAS—Messrs. Bainbridge, Barbee, Blackburn, Brown, Bruce, Chenowith, Coombs, Cowan, Cox, Daniel, Davis, Ford, Hall, Hansford, Lackey, Martin, Maupin, Miller, M'Millan, Morris, Mullens, Owsley, Perrin, Skyles, Spalding, Stephens, Street, Z. Taylor, Underwood, B. E. Watkins, S. White and Yantis—32.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Breck, Bruton, Clay, Cosby, Crittenden, Cunningham, Duke, Dunlap, Dyer, Farmer, Gibson, Gordon, Green, Hardin, Haskin, James, Lee, Marshall, Mayes, M'Cormas, New, Owings, Payne, Porter, Prince, Reed, Samuel, Sanders, Sterrett, Robert Taylor, Timberlake, Thomas, True, Turner, Waddell, Wade, Walker, E. Watkins, Wilson and Woodson—43.

Leave was given to bring in the following bills:

On the motion of Mr. Farmer—1. A bill to amend the laws concerning the turnpike and wilderness road.

On the motion of Mr. Spalding—2. A bill to amend an act entitled "an act to regulate the circuit courts within the 14th judicial district," approved January 3, 1825.

On the motion of Mr. E. Watkins—3. A bill to change the time of holding the Muhlenberg county courts.

On the motion of Mr. Crittenden—4. A bill for the benefit of the heirs of Benjamin South, deceased.

On the motion of Mr. M'Millan—5. A bill for the benefit of John Moore and others.

On the motion of Mr. Green—6. A bill to change the sessions of the Lincoln and Casey circuit courts.

On the motion of Mr. Underwood—7. A bill for the benefit of James M'Millan.

The committe for courts of justice, were directed to prepare and bring in the first; Messrs. Spalding, E. Watkins and Morris, the second; Messrs. E. Watkins, Cox and Clay, the third; Messrs. Crittenden, Sanders and Duke, the fourth; Messrs. M'Millan, Miller and White, the fifth; Messrs. Green, Napier and Cunningham, the sixth; and the committee of claims, the seventh.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Morris, from the committee of claims—1. A bill making provision for the keepers of lunatics in certain cases.

By Mr. Crittenden—2. A bill for the benefit of Daniel Dougherty.

By Mr. Green—3. A bill to change the sessions of the Lincoln and Casey circuit courts.

By Mr. Crittenden—4. A bill for the benefit of the heirs of Benjamin South, deceased.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the second, third and fourth bills having been dispensed with, the second and third were ordered to be engrossed and read a third time, and the fourth was committed to the committee for courts of justice.

And thereupon the rule of the house, constitutional provision and third reading of the second and third bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Green carry the said bills to the Senate and request their concurrence.

A bill further to regulate the salaries and debts due by this Commonwealth, reported from the committee of the whole house, was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hardin carry the said bill to the Senate and request their concurrence.

The amendments proposed by the committee of the whole house to a bill further to regulate the salaries of some of the officers of government, were twice read and concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed, it was then moved by Mr. Spalding, and seconded, to amend said bill by attaching thereto the following engrossed clause, by way of ryder, viz.

Be it further enacted, That the salary of the Treasurer of this State shall, after the first day of January next, be one thousand dollars per year.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Spalding and Hall, were as follows, viz:

YEAS—Messrs. James Allen, Blackburn, Bruton, Chenowith, Coombs, Cosby, Cox, Daniel, Davis, Fletcher, Ford, Gordon, Hall, James, Lackey, Lee, Martin, Maupin, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Prince, Samuel, Sanders, Skyles, Slaughter, Spalding, Stephens, Sterrett, Tarlton, B. E. Watkins, Wingate, S. White, Woodson and Yantis—38.

NAYS—Mr. Speaker, Messrs. John J. Allin, Bainbridge, Barbee, Breck, Brown, Bruce, Clay, Cowan, Crittenden, Cunningham, Duke, Dunlap, Dyer, Farmer, Gibson, Green, Hansford, Hardin, Haskin, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Porter, Reed, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, True, Turner, Underwood, Waddell, Wade, Walker, E. Watkins and Wilson—44.

Mr. Brown then moved to amend said bill by attaching thereto the following engrossed clause, by way of ryder, viz.

Be it further enacted, That the members of the Senate and House of Representatives, shall be entitled to receive one dollar per day for each day's attendance at the seat of government, during the session of the General Assembly, to commence from and after the first day of August next.

And the question being taken on adopting the said ryder, as an amendment to the bill, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Brown and Sterrett, were as follows:

YEAS—Messrs. Blackburn, Brown, Bruton, Chenowith, Cosby, Cunningham, Daniel, Fletcher, Green, Harvey, Marshall, Mayes, Miller, New, Nuttall, Sanders, Skyles, Spalding, Z. Taylor and Turner—20.

NAYS—Mr. Speaker, Messrs. James Allen, J. J. Allin, Bainbridge, Barbee, Breck, Bruce, Coombs, Cowan, Cox, Crittenden, Davis, Duke, Dunlap, Dyer, Farmer, Ford, Gibson, Gordon, Hall, Hansford, Hardin, Haskin, James, Lackey, Lee, Martin, Maupin, M'Cormas, M'Connell, M'Millan, Morris, Mullens, Owings, Owsley, Payne, Perrin, Porter, Prince, Reed, Samuel, Slaughter, Stephens, Sterrett, Street, Tarleton, Richard Taylor, Robert Taylor, Timberlake, Thomas, Thomasson, True, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, Wingate, S. White, Woodson and Yantis—64.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hardin carry the said bill to the Senate, and request their concurrence.

The amendments proposed by the committee of the whole house, to a bill further to regulate the Bank of the Commonwealth, (with the exception of that regulating the salary of the President of said Bank,) were twice read and concurred in.

The said amendment of the committee, fixing the annual salary of the President at $750, was twice read.

It was then moved and seconded to amend said amendment by striking out $750, and inserting in lieu thereof $1000; and the question being taken on adopting the said amendment, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Maupin and Yantis, were as follows:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Brown, Bruce, Cosby, Crittenden, Dyer, Farmer, Gibson, Gordon, Green, Hardin, James, Logan, Marshall, Mayes, M'Cormas, M'Connell, M'Millan, New, Nuttall, Owings,

Payne, Porter, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Timberlake, Thomasson, Underwood, Waddell, Walker, Wilson and Woodson—38.

NAYS—Messrs. James Allen, John J Allin, Barbee, Bruton, Chenowith, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Dunlap, Fletcher, Ford, Hall, Hansford, Harvey, Lackey, Lee, Martin, Maupin, Miller, Morris, Mullens, Owsley, Perrin, Prince, Reed, Samuel, Sanders, Skyles, Spalding, Stephens, Z. Taylor, Thomas, True, Turner, Wade, Ward, B. E. Watkins, Wingate, S. White and Yantis—44.

The said amendment of the committee was then concurred in.

The said bill having been further amended, was, with the amendments, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

The yeas and nays being required on the passage of said bill by Messrs. Maupin and Wade, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Barbee, Blackburn, Breck, Brown, Bruce, Bruton, Chenowith, Cosby, Crittenden, Davis, Duke, Dunlap, Farmer, Ford, Gibson, Gordon, Green, Hall, Hardin, Harvey, James, Logan, Martin, Maupin, Mayes, M'Connell, Morris, New, Nuttall, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Spalding, Sterrett, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Underwood, Walker, Wilson, Wingate, Woodson and Yantis—54.

NAYS—Messrs. John J. Allin, Coombs, Cowan, Cunningham, Dyer, Fletcher, Hansford, Haskin, Lackey, Lee, Marshall, M'Cormas, Miller, M'Millan, Mullens, Perrin, Porter, Prince, Samuel, Sanders, Stephens, Thomas, Thomasson, Wade, Ward, B. E. Watkins, E. Watkins and S. White—28.

Ordered, That Mr. Hardin carry the said bill to the Senate, and request their concurrence.

Mr. Crittenden presented the petition of Jesse Dennis, praying compensation for quarrying a quantity of stone for the use of the Penitentiary institution, in compliance with a contract made with the late keeper.

Which was received, read and referred to the committee of claims.

The Speaker laid before the house a letter from the Secretary of State, enclosing the information required by a resolution of this house adopted on Saturday last.

Ordered, That the said letter and report be referred to the committee of ways and means.

And then the house adjourned.

TUESDAY, NOVEMBER 29, 1825.

1. Mr. Waddell presented the petition of James Artus, of Mason county, praying that a law may pass to authorise him to set up and keep a billiard table, free from the State tax.

2. Mr. Ford presented the petition of Samuel Shannon, guardian to Mary Shannon, infant heir of Samuel Shannon, deceased,

praying that a law may pass to authorise him to make sale of a negro man slave, belonging to said infant.

3. Mr. Dyer presented the petition of sundry citizens of Ohio county, praying that a law may pass to authorise the sale of a part of the public square in the town of Hartford, and that the proceeds may be applied to aid in the completion of the jail of said county.

4. Mr. Cox presented the remonstrance of sundry citizens of Grayson and Hardin counties, remonstrating against the passage of a law for the formation of a new county, out of parts of the counties of Hart, Hardin and Grayson.

5. Mr. Richard Taylor presented the petition of sundry citizens of Jefferson county, residing in and near Middletown, praying that a law pass to endow a theological seminary, connected with a preparatory school, which they are about establishing in said town, and to appoint trustees therefor, with suitable corporate powers.

6. Mr. M'Cormas presented the petition of Stephen Marcum, praying a divorce from his wife, Elizabeth, late Elizabeth Saddler.

7. Also, the petition of Caty Winkles, praying a divorce from her husband, David Winkles.

8. Also, the petition of John Jones, praying a divorce from his wife, Anne, late Anne Day.

9. And Mr. Ward presented the petition of sundry citizens of the counties of Scott, Owen and Grant, praying that a law may pass for the establishment of a State road from Frankfort to Cincinnati, to pass through each of said counties.

Which petitions were severally received, read and referred; the 1st, 3d, 4th, 5th and 9th to the committee of propositions and grievances; the 2d to the committee for courts of justice; and the 6th, 7th and 8th to the committee of religion.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to establish an election precinct in the county of Shelby.

2. A bill to add a part of Caldwell to Livingston.

By Mr. Spalding—3. A bill to amend an act entitled "an act further to regulate the courts in the 14th judicial district," approved the 3d January, 1825.

By Mr. E. Watkins—4. A bill to change the time of holding the Muhlenberg county court.

By Mr. Wilson—5. A bill to give further time to the commissioners of the Farmers' and Mechanics' Bank of Logan, to adjust the business of said Bank.

By Mr. Mayes—6. A bill to give remedy against executors and administrators in certain cases.

By Mr. Blackburn, from the committee of propositions and grievances—7. A bill to amend an act entitled "an act further to regulate the town of Flemingsburg."

By Mr. Underwood—8. A bill to allow two additional justices of the peace to the county of Meade.

And by Mr. Crittenden—9. A bill for the benefit of Joseph J. Bell, and for other purposes.

Which bills were severally received and read the first time, the 1st, 2d, 3d, 4th, 6th, 7th, 8th and 9th ordered to be read a second time, and the 5th was laid on the table.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 4th, 7th, 8th and 9th bills having been dispensed with, the 1st, 2d, 4th, 7th, 8th and 9th, were ordered to be engrossed and read a third time, and the 3d was committed to a select committee of Messrs. Spalding, Harvey and Thomasson.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 2d, 4th, 7th and 8th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Lee carry the said bills to the Senate and request their concurrence.

The Speaker laid before the house, a report from the Trustees of Transylvania University, made in pursuance of a resolution of the General Assembly, requiring information of them, relative to the affairs of said institution, which, (with sundry accompanying documents,) was referred to a select committee of Messrs. New, Woodson, Brown, Breckinridge, Cunningham and Haskin.

Mr. New from the select committee to whom was referred a resolution of the State of Georgia, proposing an amendment to the constitution of the United States, reported the following resolutions:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the amendment to the constitution of the United States proposed by a resolution of the Legislature of Georgia, of the 22d December, 1823, providing that no part of the constitution of the United States ought to be construed, or shall be construed to authorise the importation or ingress of any person of colour into any one of the United States, contrary to the laws of such State, be, and the same is hereby disapproved by the Legislature of this Commonwealth.

Resolved further, That his Excellency the Governor be requested to transmit a copy of this resolution to the Governors of the different States, to be laid before their different Legislatures.

And thereupon the rule of the house being dispensed with, the said resolution was taken up, twice read and adopted.

Ordered, That Mr. New carry the said resolution to the Senate and request their concurrence.

On the motion of Mr. Woodson,

Ordered, That leave be given to bring in a bill for the benefit of William N. Potts, and that Messrs. Woodson, Z. Taylor and Thomasson, be appointed a committee to prepare and bring in the same.

The following engrossed bills were severally read a third time: 1. An act for the benefit of the heirs of Abraham Bowman; 2, an act to alter the mode of taking in lists of taxable property; 3, an act to revive and continue in force an act entitled "an act further to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes;" and 4th, an act to punish swindling in the sale of lands.

Ordered, That the first bill be recommitted to the committee for courts of justice, and the second to a select committee of Messrs. Blackburn, Hardin, Hall, Maupin and Prince.

Resolved, That the third and fourth bills do pass, that the title of the third be amended to read, "an act to allow the Independent Banks further time to settle their concerns and for other purposes," and that, that of the 4th be as aforesaid.

The yeas and nays being required on the passage of the fourth bill by Messrs. M'Connell and Nuttall, were as follows:

YEAS—Mr. Speaker, Messrs. John J. Allin, Bainbridge, Barbee, Blackburn, Brown, Bruce, Chenowith, Coleman, Cowan, Cox, Daniel, Davis, Dunlap, Dyer, Farmer, Ford, Gibson, Green, Hall, Hansford, Harvey, Lackey, Lee, Logan, Martin, Maupin, Mayes, M'Cormas, M'Connell, Miller, M'Millan, Morris, Nuttall, Owings, Owsley, Payne, Perrin, Porter, Reed, Samuel, Skyles, Slaughter, Spalding, Stephens, Street, Tarlton, Richard Taylor, Z. Taylor, Thomas, Underwood, Wade, Ward, Wilson, Wingate and Yantis—56.

NAYS—Messrs. James Allen, Bruton, Coombs, Cosby, Cunningham, Fletcher, Gordon, Hardin, James, New, Prince, Sterrett, Robert Taylor, True, Turner, Waddell, Walker, B. E. Watkins, E. Watkins, S. White and Woodson—21.

Ordered, That Mr. Logan carry the said bills to the Senate and request their coucurrence.

A bill from the Senate, entitled "an act for the benefit of John Ritchey, of Allen county, was ordered to be read a second time.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

Ordered, That the said message, with the accompanying documents, be referred to the committee of ways and means.

A message from the Senate, by Mr. Garrard:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act for the benefit of Goodman Oldham."

And then he withdrew.

The following bills were severally read a second time: 1. A bill further regulating the sale of vacant lands west of the Tennessee river; 2, a bill to organize the Kentucky Enterprizing Company; 3, a bill appointing commissioners to view and mark out a State road from Louisville to the Iron Banks; 4, a bill to amend the acts relative to the Shelbyville and Louisville Turnpike road Company.

The first and fourth were ordered to be engrossed and read a third time; the second was committed to a select committee of Messrs. Thomasson, Ward, Nuttall and Underwood, and the third to a select committee of Messrs. Spalding, Brown, Morris, Sterrett and Clay.

The yeas and nays being required on engrossing the fourth bill and reading the same a third time, by Messrs. Logan and Brown, were as follows:

YEAS—Mr. Speaker, Messrs. J. J. Allin, Bainbridge, Barbee, Blackburn, Brown, Bruce, Chenowith, Coleman, Coombs, Cosby, Crittenden, Daniel, Davis, Dunlap, Dyer, Farmer, Gibson, Gordon, Green, Hall, Hardin, Haskin, Martin, Maupin, M'Cormas, M'Millan, New, Payne, Perrin, Porter, Prince, Samuel, Sanders, Skyles, Spalding, Sterrett, Street, Tarleton, Richard Taylor, Z. Taylor, Thomas, Thomasson, True, Underwood, Waddell, Wade, Walker, Ward, Wilson, S. White, Woodson and Yantis—53.

NAYS—Messrs. Bruton, Carter, Cowan, Cox, Ford, Hansford, Harvey, Logan, Mayes, M'Connell, Mullens, Nuttall, Owsley, Reed, Turner, B. E. Watkins, E. Watkins and Wingate—18.

And thereupon the rule of the house, constitutional provision and third reading of the first and fourth bills having been dispensed with, and the same being engrossed, and the first having been laid on the table,

Resolved, That the fourth bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Thomasson carry the said bill to the Senate, and request their concurrence.

Ordered, That the message of the Governor, communicated to this house on the . instant, enclosing resolutions of the General Assembly of the State of Ohio, proposing a certain amendment to the constitution of the United States, be committed to a select committee of Messrs. New, Mayes, Gordon, Underwood and Ward.

Mr. Blackburn, from the select committee to whom was referred an engrossed bill entitled an act to alter the mode of taking in lists of taxable property, reported the same with amendments, which being twice read, were concurred in.

Ordered, That the said bill as amended, be re-engrossed and again read a third time to-morrow.

And then the house adjourned.

WEDNESDAY, NOVEMBER 30, 1825.

Mr. Farmer presented the petition of sundry citizens of the counties of Knox, Clay, Whitley and Rockcastle, praying for the establishment of a new county out of a part of each of said counties.

And Mr. Breck presented petitions counter thereto, from the county of Clay.

Mr. Ford presented the report of the commissioners and surveyor appointed to run and mark the line between the counties of Shelby and Spencer, agreeably to the act establishing the latter county.

And Mr. Underwood presented the petition of Thomas M. Smith, praying that a law may pass to legalize and confirm the location of the seminary lands granted to the county of Simpson, made on the vacant lands of the Commonwealth, south of Walker's line and north of latitute 36° 30′.

Which petitions were severally received, read and referred to the committee of propositions and grievances.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to add a part of Caldwell county to the county of Trigg, and for other purposes.

By Mr. Underwood, from the committee for courts of justice—2. A bill to establish a ferry on Green river, opposite the lands owned by Coleman Carter, on both sides of said river.

3. A bill to provide for the removal of the seat of government from the town of Frankfort to some more central and eligible site.

4. A bill to amend an act entitled "an act for opening a road from Bowlinggreen to the mouth of Clover creek, on the Ohio river.

By Mr. New—5. A bill further to amend the laws in relation to lunatics.

By Mr. Woodson—6. A bill for the benefit of William N. Potts.

By Mr. M'Millan—7. A bill for the benefit of John Moore and others.

By Mr. Lackey—8. A bill to alter the times of holding certain circuit courts.

By Mr. Ward—9. A bill for the benefit of Nancy Thompson.

And by Mr. Blackburn—10. A bill to encourage the establishment of private schools.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the 1st, 6th, 7th and 9th, were ordered to be engrossed and read a third

time; the 2d was committed to the committee of propositions and grievances; the 3d to a select committee appointed to prepare and bring in a bill on the same subject; the 4th to a select committee of Messrs. Underwood, Sterrett, Cox and Porter; the 5th to a select committee of Messrs. Yantis, Woodson and New; and the 8th to a select committee of Messrs. Lackey, M'Cormas, Coleman, Fletcher, Davis, Duke and M'Connell.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 6th, 7th and 9th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Woodson carry the said bills to the Senate, and request their concurrence.

Mr. Walker, from the select committee to whom was referred a bill to establish election precincts in Monroe county, reported the same with amendments; which being twice read, were concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time to-morrow.

Mr. M'Connell moved the following preamble and resolutions:

The act of Assembly approved December 24th, 1824, purporting to abolish the Court of Appeals and to create another, was, at the time of its passage, believed by a respectable minority in the Senate and in the House of Representatives, to be in direct violation of the great fundamental law of the land, so far as it attempted to destroy one court and to create another. That minority solemnly appealed to the people of Kentucky, by a written protest against that act, in which it was declared as their opinion, that justice, equality of rights, constitutional liberty, and even religion itself, were endangered by that infraction of the constitution; that the independence of the judiciary was, by the effect of that act, partially, if not totally, destroyed; that by disregarding the constitutional form of government for removing Judges from office, which was established by the people themselves, and by setting up their legislative will in opposition to it, Kentucky was placed in a revolutionary attitude.

From the importance of the subject, the whole people of Kentucky took a deep interest in the question. In almost every county in the State, candidates for and against this legislative encroachment, were brought out previous to the late election, and in that way the question, it is believed, was fairly put, fully tried, and conclusively settled, by the people themselves. The result proves that a large majority of the qualified voters of this State, are unhesitatingly of the opinion, that the act in question was, and is, repugnant to the constitution. An act of Assembly which is con-

trary to the constitution, is, by the 28th section of the 10th article of that instrument, declared to be "*null and void.*"

This is a representative government, and the constitution is the letter of attorney or great charter of the people, from which the representatives derive their power to make laws, or to administer the government. It results, therefore, as an undeniable proposition, that when the representatives of the people shall exceed the powers delegated to them by the constitution, and pass an act which is contrary to it, or which is forbidden by it, the people are not bound by such act, nor does any individual citizen owe obedience to it. First, because the people themselves have, by their constitution, declared such law to be *null and void*; and second, because the agent can never bind his principal farther than his powers, as agent, extend.

The constitution of the United States and of this State, by creating a judiciary department, and by causing the Judges and magistrates who fill that department, to take a solemn oath that they will sustain and support those constitutions, have made it their positive duty, to examine into the compatibility of an act of the Legislature, with each of those constitutions, or its repugnance to them, and to pronounce upon it accordingly, whenever such legislative act shall be judicially drawn in question before them, in any suit or action of which they have jurisdiction. Hence, in ordinary cases, the decision of the judiciary upon the constitutionality of legislative acts, is considered of high authority and of binding influence.

The decided opinions of a majority of the circuit Judges in the State, are against the constitutionality of the act, and of consequence, against the right of the Legislature to pass it. This branch of the judiciary not being the tribunal of the last resort, and not being united in opinion respecting the validity of the act, this question could not be finally or satisfactorily determined by the circuit courts.

The Court of Appeals, shortly after the passage of that act, decided without doubt or dissention, that it was unconstitutional; but inasmuch as this was an act of an extraordinary character, and inasmuch as it was one in which the whole people of Kentucky were directly and deeply interested, the Judges of that court did not wish that their decision should be final, but like the minority in the Legislature, *they, also, appealed to the people.* That high tribunal of the last resort, the great body of the people, by whom alone this question could properly be put at rest, having by their solemn and deliberate judgment, pronounced the said reorganizing act to be an infraction of the constitution, it is an undeniable truth, with all those who admit the sovereign right of the people to decide this great question, that the aforesaid re-organizing act is not

obligatory upon the good people of this Commonwealth, nor upon any individual citizen thereof.

Considering, then, the act in question as having no obligatory force whatever, and considering it to have been so pronounced by the people themselves, it is manifest that the pretended Judges, who were brought into existence as such, in virtue of that act, have no just claim upon the good people of this Commonwealth, for any salary or compensation whatever, in the character of Judges: Therefore,

Be it resolved by the House of Representatives, That it is the express and deliberate opinion of this house, that the individuals who have assumed to exercise the power and authority of Judges of the Court of Appeals, in virtue of the re-organizing act aforesaid, are not entitled to receive out of the public Treasury, any compensation or salary, on account of claiming to be Judges as aforesaid; nor ought the good people of this Commonwealth to be taxed to compensate or maintain any pretended officers, who have acquired their officesin virtue of the aforesaid unconstitutional act of the Legislature.

Resolved further, That the Auditor of public accounts be cautioned and advised not to audit, and the Treasurer of this Commonwealth is, in like manner, cautioned and advised not to pay, any claim for salary or compensation, to either of the aforesaid pretended Judges, or to any officer of the said unconstitutional court.

Resolved further, That the Auditor and Treasurer will, in the opinion of this house, deserve well of their country, and be considered as faithful public officers, by thus preserving the public money from the hands of those who have no just or equitable right to receive the same.

Which being twice read, it was then moved and seconded to lay the said preamble and resolutions on the table until the first day of June next; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Perrin and M'Connell, were as follows:

YEAS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Manpin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—37.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—56.

The question was then put on the adoption of the first resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. M'Connell and Duke, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Green, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—57.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarleton, Thomas, Wade, Ward, E. Watkins and S. White—37.

The question was then put upon adopting the second and third resolutions, which was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Wade and Cosby, were as follows:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Green, Hansford, Hanson, Hardin, Harvey, Hutcheson, James, Logan, Marshall, Mayes, M'Connell, New, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—53.

NAYS—Messrs. James Allen, John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—38.

Leave was given to bring in the following bills:

On the motion of Mr. Brown—1. A bill to authorise publications, &c. in the Louisville Gazette.

On the motion of Mr. Ward—2. A bill for the benefit of Nancy Thompson.

On the motion of Mr. Underwood—3. A bill for the benefit of George T. Wood.

And on the motion of Mr. Dyer—4. A bill to legalize certain proceedings of the Ohio county court, at their November term, 1825.

Messrs. Brown, Thomasson, Taylor and Davis, were appointed a committee to prepare and bring in the first; Messrs. Ward, Tarlton and Underwood, the second; the committee of claims, the third, and Messrs. Dyer, J. Allen, and E. Watkins, the fourth.

Mr. Thomasson moved the following resolution:

Resolved, That so much of the Governor's communication as relates to the act of Congress giving the privilege to certain militia officers in each State to communicate by letter through the mail, free of postage, be referred to the committee of ways and means, with leave to report by bill or otherwise.

Which being twice read, was adopted.

The house took up a resolution fixing on a day for an adjournment of the General Assembly; which being twice read, was adopted.

Ordered, That Mr. Hanson carry the said resolution to the Senate and request their concurrence.

Mr. Sanders moved the following resolution:

Whereas it has been stated to the good people of this commonwealth, that the act passed at the last session of the General Assembly, requiring that the taxable property shall be valued in paper of the Commonwealth's Bank, was intended and had an effect to double the taxes; and whereas the committee of ways and means in a late report, make the following statements, viz: "Last session the bill passed altering the mode of valuing property, as a means, of *increasing* the taxes, by nearly doubling them, at the same time professing only to equalize them; which, as it related to the people, was disingenuous and deceptious. The people have a right to know what is done by their representatives, and they ought never to be imposed upon by an indirect and left handed plan of increasing their burthens. If they are to be made hewers of wood and drawers of water to support the extravagance of a set of men, tell them so, and then they will decide whether they desire the continuance of such task-masters. Another maxim, which in a republic ought ever to be observed, when the legislature use the people's money, take it directly so, they can both see and feel the measure, and never intercept it before it reaches the public treasury." And whereas the said committee have devised no means of relieving the people from the burthens and impositions thus alleged to have been imposed and practised upon them by their public servants: For remedy whereof,

Be it resolved by the House of Representatives, That the committee of ways and means be instructed to enquire into the practicability of reducing the taxes to be collected on the valuation of 1825, to three and one eighth cents on each hundred dollars worth of taxable property.

Which being twice read, was adopted.

Mr. Yantis moved the following resolution:

Resolved by the House of Representatives, That the committee on ways and means be instructed to call on the public printer for his account current for the year 1825, and examine said account and report to this house.

Which being twice read, was adopted.

The house took up the resolution for fixing on a day for the election of public officers, which being twice read, and amended by filling up the blank therein with the 7th of December next, was adopted.

Ordered, That Mr. Woodson carry the said resolution to the Senate and request their concurrence.

The house took up for consideration the preamble and resolutions laid on the table by Mr. Marshall on the 25th instant.

Ordered, That the said preamble and resolutions be committed to the committee for courts of justice.

The house took up the resolution offered by Mr. Maupin on the 19th instant, which being twice read and amended, was adopted in the following words:

Resolved, That from and after this day, the hour to which this house will regularly adjourn, shall be 9 o'clock, A. M.

And then the house adjourned.

THURSDAY, DECEMBER 1, 1825.

Mr. Waddell presented the petition of Edwin Hord, praying that the laws in relation to the proceedings in actions of ejectment and granting appeals, may be amended.

And the Speaker laid before the house the petition of sundry citizens of Lewis county, praying that a law may pass to direct the attorney for the Commonwealth in said county, to bring suit against the clerk of said county, to recover sundry sums of money improperly collected by him under the order of the county court of Lewis, for fuel, stationary, &c. for the use of his office.

Which petitions were severally received, read and referred to the committee for courts of justice.

The Speaker laid before the house a report from Thomas B. Monroe, Reporter of the decisions of the Court of Appeals, in answer to a resolution of this house; which was received, read and referred to the committee of ways and means.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

1. *Resolved*, That the petition of the citizens of Ohio county, praying for leave to sell part of the public square in the town of Hartford, *is reasonable.*

2. *Resolved*, That the petition of Thomas M. Smith, who was appointed by the county court of Simpson county, to locate the seminary land for said county, praying that a law may pass to authorise the register of the land office to issue patents for 5,200 acres of land located by him for said seminary, south of Walker's line and north of latitude 36° 30′ east of the Tennessee river, upon the plats and certificates of survey being returned to him, *is reasonable.*

3. *Resolved*, That the petition of James Artus, praying that he may have leave to keep and use a billiard table in his tavern, without paying tax thereon, *be rejected.*

4. *Resolved*, That the petition of the citizens of Hardin, Hart and Grayson, praying that a new county may be erected out of parts of their several counties, *be rejected.*

5. *Resolved*, That the petition of the citizens of Whitley county, praying for the establishment of a State road and an appropriation of money for opening the same, *be rejected.*

6. *Resolved*, That the petition of the citizens of Harrison and Pendleton counties, praying for the establishment of a State road from Cynthiana, in Harrison county, by John Smith's, near the mouth of Raven creek, thence by Thomas Dance's, in Pendleton county, to Williamstown in Grant county, *is reasonable.*

7. *Resolved*, That so much of the petition of the citizens of Jefferson county, as prays that a sum of money may be appropriated by law to enable them to establish a theological school at Middletown, *be rejected.*

8. *Resolved*, That so much of the petition of the citizens of Jefferson county, as prays for the passage of a law authorising them to raise by lottery of one or more classes, the sum of $25,000, for the purpose of establishing a seminary at Middletown, *is reasonable.*

9. *Resolved*, That the petition of the citizens of Pendleton county, praying for the appropriation of money, to be applied to the opening a road from the mouth of Holt's creek, in Bracken county, through Falmouth, in Pendleton county, to Cynthiana, in Harrison county, *be rejected.*

10. And so much of said petition as prays for the passage of a law authorising them to raise by lottery, in one or more classes, the sum of $2,000, to be applied to opening said road, *is reasonable.*

11. *Resolved*, That the petition of the citizens of Spencer county, praying that a law may pass authorising some disinterested surveyor to run and mark the line between the counties of Shelby and Spencer, *is reasonable.*

12. *Resolved*, That the petition of the citizens of Shelby county, praying that the line run by the commissioners appointed by the county court of Shelby county, shall be established as the true boundary between the counties of Shelby and Spencer, *be rejected.*

Which being twice read, (the 8th and 10th resolutions being amended by striking out the words "*is reasonable*," and inserting in lieu thereof the words "*be rejected*,") was concurred in.

Ordered, That the said committee prepare and bring in bills pursuant to the 1st, 2d, 6th and 11th resolutions.

Mr. Morris, from the committee of claims, reported a bill making an allowance to Thomas S. Page; also, a bill making an allowance to Col. William Steele.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the former was ordered to be engrossed and read a third time, and the latter was recommitted to a select committee of Messrs. Blackburn, Walker, J. Allen and Underwood.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Sanders carry the said bill to the Senate and request their concurrence.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee for courts of justice, charged by a resolution of the House of Representatives to ascertain what obstacles exist to impede the Court of Appeals in the regular discharge of their official duties, to examine into their nature and extent, and how and by whom created, and to report to the house the most effectual means for their immediate removal, beg leave to report:

That under a belief that Messrs. John Boyle, William Owsley and Benjamin Mills, the Judges of said court, could best inform the committee what obstacles exist to impede the court, the committee, by their chairman, addressed to the Judges a letter on the subject, a copy of which is herewith presented, dated the 25th of November, 1825. To this letter the Judges returned an answer, dated the 26th of November, 1825, herewith also submitted, covering a copy of the record of said court, certified by their clerk.

Your committee summoned Jacob Swigert, the clerk of the Court of Appeals, to appear before them, and examined him touching the subjects embraced by the resolution of the house. His statement is herewith submitted, dated November 26, 1825.

The committee called F. P. Blair before them, for the purpose of examining him as to the situation of the papers, records and public property belonging to the Court of Appeals, which, from previous information, they supposed were in his possession. Mr. Blair desired that the committee should propound their questions in writing; which was done. The questions and answers are herewith submitted.

Your committee would observe, that the evidence procured by them and the documents exhibited, prove that there are but two obstacles which impede the Judges of the Court of Appeals in the regular discharge of their official duties. One is, the withholding from them the papers, records and public property pertaining to the court, by F. P. Blair; the other is, the want of a suitable

room for the accommodation of the court. The first has been superinduced by the act of last session, entitled "an act to repeal the law organizing the Court of Appeals and to reorganize a Court of Appeals;" under the provisions of which, William T. Barry, James Haggin, John Trimble and Rezin Davidge, have been commissioned as Judges, and F. P. Blair appointed as clerk of the Court of Appeals. Under the proceedings tolerated by that act, and under powers exercised by said Barry, &c. in the assumed characters of Judges of the Court of Appeals, said Blair has obtained possession of the papers and records now in his possession, and which belong to the clerk's office of the Court of Appeals created by the constitution. The withholding of these papers and records from the court by said Blair, constitutes no serious obstacle to the regular administration of justice in the causes of recent occurrence, which by appeals and writs of error are brought from the inferior tribunals to the supreme court, for adjudication. From the information your committee have received, it is believed that most cases of recent date, in which appeals or writs of error are prosecuted, are progressing before the court and will terminate without any obstacle to prevent, according to the usual and legitimate routine of business in the supreme court. The legislative tribunal, acting under the aforesaid act, is not at present engaged in any attempt to do business. Its members are dispersed, and said Blair, their clerk, has closed his imaginary office, and refuses to let those interested in the papers and records in his possession, examine them. This new tribunal, therefore, will not in future, it is believed, constitute any obstacle to the progress of business in the Court of Appeals, at least so far as new cases may be brought up.

It cannot be disguised, that the last Legislature was divided into two parties, one of which based its pretensions to public confidence on the inviolability of private rights and the strict enforcement of contracts under the laws in force at the time the contracts were made, and by denying that the Legislature had power under the constitution to interfere with these rights by passing acts authorising retrospective replevins. The other party insisted that the Legislature have at all times the power, by changing the "remedial laws," to procrastinate the payment of debts for any length of time within the discretion of the legislative body; and this party, when checked in their career by the Court of Appeals, in the decision given in the case of Lapsley and Brashears, finding that they could not, in the modes prescribed in the constitution, either by address or impeachment, remove the Judges of the court from office, and thereby prostrate all opposition to their views of policy and power, resorted to the expedient of passing the act aforesaid, to effect their purposes. Against that act of the legislature, so far as it purported to repeal and abolish the Court of Appeals and

erect another tribunal in its stead, the minority in both branches solemnly protested, on the ground that it was a direct violation of the constitution, and because its direct object and tendency was to subvert the independence of the judiciary, and in effect to destroy the impartiality of the judges, by tempting them to swerve from their duty and bend to the principles and views of those who controlled the legislative department, even at the sacrifice of those sacred rights which are secured to every citizen by the constitutions of his country. In this respect, the reorganizing act was more alarming in its consequences, than those replevin laws which were designed to be supported by it, and produced an appalling fear in the minds of many, that if tolerated by the people, the day might arrive when the poor, and the weak, and the humble, could not appeal with confidence and hope to their judges for redress, when wronged by the rich, the powerful, the influential and aspiring.

Your committee will not enter into an argument, at this time, to prove the unconstitutionality of the act of the last session, so far as it purports to repeal the constitutional court, and to erect and establish another court in its room and stead; nor do they perceive any thing new in the remarks of Mr. Blair, forced on the committee, when facts alone were enquired into, which deserves an answer. The issue was fairly made up before the people, at the last election. The subject, in all its bearings, was fully discussed and considered by them; and they, the ultimate arbiters of all constitutional questions involving the separate and independent existence of one of the departments of government, by which right and justice are dispensed to the people, have decided the question satisfactorily to your committee, and to this house. Their decision is, that the re-organizing act, to the extent aforesaid, is unconstitutional and void, and no tribunal, except that of the people, has cognizance of the controversy. But, in this instance, their decision has not been obeyed. Instead of yielding to it, the existence of the re-organizing act on the statute book, and the refusal of those who voted for it to aid in its repeal, although since their votes were given in favor of the passage of the act, the people, in three cases out of four, have had no opportunity to change their representatives in the Senate, are now made pretexts to justify some in their opposition to a regular administration of justice, by the constitutional Court of Appeals.

The want of a suitable room for the accommodation of the court, is an inconvenience of minor importance to the court and to the country, compared with the want of the papers and records in the custody of F. P. Blair. Copies of these records are essentially necessary to enable the court to decide causes which have heretofore, for a long time, been pending in the court, and they can only be dispensed with by putting the parties litigant to the expence

of procuring new copies of records to be made out by the clerks of inferior courts, and filed with the clerk of the Court of Appeals for adjudication. The office of the clerk of the Court of Appeals, having been made an office of record for deeds, throughout the State, and also for foreign wills, it is believed that office copies of such deeds and wills, properly authenticated, and likewise copies of papers, judgments, decrees, executions, &c. which appertain to causes heretofore decided, will be extensively required. Many evils will result, if the papers and records are not placed in the custody of the clerk of the court, inasmuch as the unconstitutionality of Blair's claim to be the clerk of the Court of Appeals, will, it is believed, cause papers and records, certified by him as such, to be very generally rejected, when offered as evidence before the circuit courts. The delay to suitors in the trial of their causes, already of long standing, will also operate as a serious evil to the community, if the papers and records are not restored to the court.

In responding to that part of the resolution of the house which requires them to report upon the means which should be resorted to for the purpose of removing the obstacles which impede the court in the regular administration of justice, your committee are deeply impressed with the awfully responsible situation of the house, and the duties they have to perform. The country at this time presents a spectacle distressing to every friend of rational liberty. The supreme executive magistrate announces in his message to the representatives of the people, his determination to consider as lawless, that tribunal, which the people, by their recent elections, have recognized as the only constitutional supreme court of the State. He also, in reference to a legislative enactment, which the people have declared unconstitutional, null and void, intimates a determination to see that its provisions shall be enforced upon them. We see before our eyes, men struggling for the power to decide on our rights and our property, who, (as the people have declared,) possess no constitutional authority to ascend the judgment seat; and we see a private individual braving the rightful authority of the highest judicial tribunal known to our constitution, and plainly telling this house and the people, that he will not surrender the papers, records and public property in his possession, to those to whom they legitimately belong, and without which, the regular administration of justice cannot take place. We behold an individual, possessed of public records and papers, containing the evidences of the titles by which much of the property of the commonwealth is held, and which he and those aiding him, violently took from the office of the late clerk of the Court of Appeals, and which are now concealed from public inspection, and that individual to continue the agitations of the country, and to set at naught the supreme law of the land. To do away all pretence

of justification for such proceedings, your committee, at a former day, reported a bill to repeal the reorganizing act, and which passed the house of representatives by a large majority. But in proposing a repeal of that act, your committee were not influenced by any doubts of the correctness of the opinion pronounced by the people, through the medium of their elections, that said act was, and is, so far as it attempts to repeal the supreme court into non-existence, and to create another in its stead, inoperative, null and void. Had that act extended no further than an attempt to abolish and destroy one Court of Appeals, and to create another, its repeal would have been considered altogether useless. It would have been the repeal of a nullity. But as that act contained impolitic provisions, not repugnant to the constitution, to rid the country of these, its repeal was thought advisable. A decent respect for the opinions of the minority, also had its effect in prompting to the course pursued, inasmuch as a repeal of it, would, in the opinion of your committee, have been the most certain means of removing all obstacles which exist to impede the Court of Appeals in the regular administration of justice, and by such repeal, it was thought that the object of the house could be attained in a manner least exceptionable to the minority in the country. But as this mode of removing the obstacles alluded to, will, in all human probability, fail, in consequence of some of the agents of the people refusing to obey, not only the general will of the people, but the positive instructions of their immediate constituents, it becomes us to enquire whether there is no other mode left us by which we may release ourselves from the evils of an unconstitutional enactment. This house forms but a part of the General Assembly, and it is unnecessary for us to disclaim all pretension to the right to pass laws without the concurrence of the other branch of the Legislature. To a constitutional law, this house, in common with all the functionaries of the government, owes obedience. But this house does not, nor does any citizen of the State, owe obedience to an act, which, although it has passed through all the forms of legislation, yet violates the constitution; for such acts, by that instrument, which in all cases is the paramount expressed will of the people, are declared to be null and void. In declaring, therefore, the act in question null and void, so far as it purports to abolish the Court of Appeals and to remove its Judges from office, this house does not attempt to legislate. It does no more than embody and promulgate to the other functionaries of government, and to the public, our testimony of the judgment which the people have formed and pronounced against it. If then, the court was not abolished by the said act, but still has a constitutional and actual existence, the committee give it as their deliberate opinion, that the court possesses unquestionable authority, through its executive officers, to coerce a return of its papers

and records. Such power must, of necessity, exist in all judicial tribunals. It is incident to the power of judging; for unless the court can command its records, it is practicable for any violent and lawless individual to suspend its proceedings by seizing and carrying off its records. If Barry, &c. in the character of Judges, under colour of an unconstitutional enactment, can find a pretext to direct the forcible seizure of the records of the court, it surely cannot be denied, that Boyle, &c. have a clear power to coerce a return of the papers, if they be the only constitutional Judges. That they are, your committee do not doubt. In forcing the records and papers from the late clerk, A. Sneed, deceased, your committee perceive, on the part of those concerned, nothing else than a violent trespass; because the party acting, were proceeding in opposition to the fundamental law of the land. In coercing a return of the papers to the present clerk, it is believed the court will discharge a duty to the public, and that those who execute the orders of the court, cannot be regarded as trespassers, because such a proceeding will be in pursuance of legitimate powers derived from the constitution and laws. It is moreover the opinion of the committee, that any opposition, or resistance, by force, to prevent the Court of Appeals from the recovery of its papers and records, would subject the parties so making resistance, to the penalties imposed for resisting the execution of the laws, and to a responsibility for all consequences.

Your committee recommend the adoption of the following resolutions:

1. *Resolved*, That in all constitutional questions between the different departments of the government, involving the existence or destruction of any one of them, the people constitute a tribunal in the last resort, to decide thereon.

2. *Resolved*, That the question involving the constitutionality of the act of 1824, reorganizing the Court of Appeals, has been distinctly made before the good people of this Commonwealth.

3. *Resolved*, That a majority of the good people of this Commonwealth have decided, that so far as said act was intended to have the effect of abolishing the then existing Court of Appeals, the same is unconstitutional and void.

4. *Resolved*, That the said act being so, by the tribunal of the people, declared, to the extent aforesaid, to be unconstitutional and void, the Court of Appeals, existing before the passage of said act, is, that act notwithstanding, yet the constitutional supreme court of the Commonwealth.

5. *Resolved*, That the said pre-existing court being still the constitutional Court of Appeals of this Commonwealth, it is, in the opinion of this house, within the legitimate powers of the Judges of said court, by their executive officer, to coerce a restoration of the papers, records and public property, taken from Achilles

Sneed, their late clerk, to the present clerk of the court, and that they should cause it to be done by the use of all constitutional and legal means.

6. *Resolved*, That all courts of record have power, through their executive officers, to reduce to possession such of their papers and records as may have been taken from them by violence.

No. 1.

Frankfort, November 25th, 1825.

MESSRS. JOHN BOYLE, WILLIAM OWSLEY AND BENJAMIN MILLS:

Gentlemen,

Regarding you as the Judges of the Supreme Court of the State of Kentucky, the committee for courts of justice, in the House of Representatives, have instructed me to lay before you a resolution adopted on the 24th inst. and which is herewith presented. The object of the committee is to obtain from you such information as will enable them, in pursuance of the resolution, to report to the house. You will, therefore, be pleased to inform the committee what obstacles exist, to impede you, as Judges of the Court of Appeals, in the regular discharge of your official duties; the nature and extent of those obstacles, and how and by whom created. Your answer is desired with as much despatch as is practicable.

With respect, your obedient servant,
J. R. UNDERWOOD, *Chairman*.

No. 2.

MANSION-HOUSE, Nov. 26, 1825.

Sir:

We have received your communication, made as the organ of the committee for courts of justice of the House of Representatives, requesting us to inform that committee "what obstacles exist to impede us, as Judges of the Court of Appeals, in the regular discharge of our official duties, and the nature and extent of those obstacles, and how, and by whom created," as given you in charge by a resolution of the house.

In reply thereto, we would respectfully state, that we have met at every term, and adjourned session of the Court, which has occurred since the passage of the re-organizing act of the last session of the Legislature, prepared to do the ordinary business of the court. At the adjourned session in January last, we declined doing business, because we had previously done the greater part of the business of the term; and also, because the public mind, as well as the officers of the court, appeared to be at an awful pause, upon the consequences which might result from so

violent a blow, as that act attempted to inflict on one of the co-ordinate departments of government.

On meeting at the succeeding term in April last, we found our Clerk's office emptied of all its contents, consisting of public property, record books, transcripts of records of pending suits, except a few of the latter description which were under immediate consideration, and of course in our personal possession, and also a few more which had been placed by our Clerk in the hands of copyists employed by him, and were thereby saved from being carried off. How and by whom this was done, will appear by an extract from our records, which we herewith transmit.

We did not doubt that our Clerk was still the proper keeper of these records for the court, and that a restoration of them ought to take place, the re-organizing act notwithstanding. But we then believed that public feeling was so much excited on account of that act, as to be easily aroused into a flame that might be of direful consequences, and could not be easily extinguished, and that coercing back the papers might be the means of such a commotion, and we were then unwilling to be the immediate instruments of such a calamity. There are times of public excitement, collision and revolution, in which it may be prudent for courts to abstain from the disagreeable exercise of official duty; and such a time we conceived that to be. We, therefore, remained a few days in our seats, and then adjourned.

At the commencement of the present term, the appointment of a Clerk devolved on us by the constitution, owing to the previous death of Achilles Sneed, Esq. the late Clerk, from whom the records and public property had been taken. We accordingly appointed Jacob Swigert, Esq. by whom we caused a report to be made and recorded, showing the real situation of the office, which is the document before referred to. We then entered our order, directing Francis P. Blair to restore to the possession of our clerk, the records and public property, which order has been executed on him. In making this order, we did what we believed to be our duty, in demanding the contents of the office, and indulged a feint hope, that respect for the constitution, the constituted authorities and the public will, would have insured obedience. But in this we have been disappointed. He has not complied, nor has he deigned to make us any reply, nor have we, as yet, taken any further measures to compel a compliance.

At the first of this term we took a short recess, in order that the business might be set in order by the clerk recently appointed, and have again met and still remain in session. Not believing it our duty longer to suspend our duties, and the parties and their counsel in some of the suits already heard, having become impatient, and being willing to relieve as much as possible the almost entire stagnation of business, arising from the re-organizing

act, we have begun and are now progressing in rendering judgments and decrees in cases heard, and in hearing some of the cases which have recently come to, or have remained on our files. Judging from the number of appeals and writs of error lately brought, and comparing them with the number of appearances which existed at the fall term before the passage of the reorganizing act, we suppose that the great current of business from the State at large is setting into the court as usual. But the records of former causes, and other public property, are still withheld by F. P. Blair.

Another obstacle to the regular progress of business is created by the conflagration of the Capitol, whereby the court is left without a proper room for the purpose, except such as the officers of court have been able to procure at their own responsibility, as there is no existing appropriation by law for the purpose of procuring a room.

Thus, sir, we have laid before you an answer to the inquiries which you have been pleased to make of us, so far as we suppose facts may come within the purview of your communication.

Accept for yourself and the honorable committee over which you preside, assurances of our high consideration and regard.

JOHN BOYLE,
WM. OWSLEY,
B. MILLS.

The Hon. Chairman of the Committee for Courts of Justice of the House of Representatives.

Copy of a report of the Clerk, in relation to the records, &c. belonging to the Court of Appeals.

STATE OF KENTUCKY, SCT.—COURT OF APPEALS, OCTOBER 5, 1825.

Ordered, That the clerk of this court make out and present to the court a report of all the transcripts of records, record books, or other books of the office and public property belonging thereto, which he has received and taken into his custody, from the representatives or deputies of Achilles Sneed, Esq. late clerk; and if he has not received all belonging to said office, that he ascertain and report the reason why they are not delivered, and in whose hands or possession any of said articles now are, and by what means they were taken from the custody of the clerk of this court."

On the 6th of October, the clerk of this court, in pursuance of the order made on yesterday, made the following report, which was ordered to be recorded, to wit:

In conformity to an order of court requiring me to make out and present to the court, a report of all the transcripts of records, record books, or other books of the office, and public property belonging to the Court of Appeals, which I have received from the

representatives of the late clerk, the following report is respectfully submitted:

I received the transcripts of records in the following causes which are pending in court, to wit: Ward's executors vs. Trotter, &c. writ of error to the Montgomery circuit court; Berry vs. Berry's heirs, an appeal from the Woodford circuit court; the Farmers' and Mechanics' Bank of Lexington vs. Huston; same vs. January, three cases; same vs. Morton, four cases, all writs of error to the Fayette circuit court; and Thornberry vs. Churchill and wife, on appeal from the Bullitt circuit court; also, a petition for a re-hearing in the case of Barbour vs. Whitlock; the docket of the court as it stood at the last spring term; and the minute book containing the proceedings of that term.

And being further required by said order to report whether I have received all the records, books, &c. belonging to said office, and if not, to ascertain and report the reasons why they are not delivered, and in whose hands or possession any of the articles are, and by what means they were taken from the custody of the late clerk; in answer to this branch of the order, I respectfully report: That an act having been passed by the General Assembly of Kentucky, styled "an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals," and approved by the Governor on the 24th day of December, 1824, under pretence of said act, William T. Barry was nominated Chief Justice, and James Haggin, John Trimble and Benjamin W. Patton, as associate Justices of the Court of Appeals, and on the day of 1825, the Senate confirmed their nominations. It appears, that on the 3d day of February, 1825, Barry, Haggin and Trimble met in Frankfort, assumed the character, power and jurisdiction of a court, and appointed Francis P. Blair clerk to their tribunal. On the same day, an order was entered up, at the instance of S. P. Sharp, acting under the responsibility of his office as attorney-general, requiring Achilles Sneed, the clerk of the Court of Appeals, to deliver to said Blair all the books, records, process and property, belonging to his office. Mr. Sneed refused to obey this order and surrender the papers. This tribunal, acting as a court, summoned him before it, upon a rule to show cause why he should not be attached for a contempt. At the same time, an order was entered up, commanding the sergeant, tipstaff and crier of this tribunal, to go with the said Blair, their recorder, secretary or clerk, and to deliver him the papers called for by the preceding order. This order, it appears, was partially executed upon the 4th of February, 1825, by forcing open the house of Achilles Sneed, the late clerk of this court, by violence, and against his approbation and will, wresting from him a portion of the papers, then considered by the assailants to be all. On the 5th of the same month, the attachment which had issued upon the rule above mentioned, was

discontinued. On the same day, it appears that the attorney-general, Sharp, informed Barry, Haggin and Trimble, of the disappointment which had occurred, and that the rule for the delivery of the papers was only partially executed. The clerk of the Court of Appeals was again summoned and attached, an inquisition was had upon him, he was pronounced guilty of a contempt, in refusing to surrender papers which were in his official custody, and a fine was ordered to be entered against him for $33 1-3, for that contempt. In the mean time, the sergeant, tipstaff and crier, and F. P. Blair, again violently forced open the house of the said Sneed, and forcibly and without his consent, carried off all the books, records and papers belonging to his office of clerk of the Court of Appeals, and then in his custody. It is not in my power to furnish a list of the papers and property, which, it seems, have been thus violently seized on and forced out of the possession of my predecessor. I have seen many of them, from time to time, in the possession of the above named Blair, who pretends to hold them as clerk of the Court of Appeals, and is now acting as such, by giving copies of the records from the books of said office, certified by him as clerk. There is no doubt but that the books, records, &c. taken as related from the late clerk of the Court of Appeals, are now in the custody of said Blair.

Whereupon, it is ordered, that Francis P. Blair do, on or before the first Friday in November next, deliver over to the clerk of this court, all the records, books, papers and other property, belonging to the clerk of the Court of Appeals; and it is further ordered, that a copy of this order be served on him forthwith.

Upon a copy of the latter order, the sergeant returned "delivered a true copy of the within to F. P. Blair, the 10th of October, 1825."

TESTE, J. SWIGERT, *C. C. A.*

No. 3.

J. Swigert's Statement.

J. Swigert being called on by the committee for courts of justice, to make a statement in relation to the record books, papers, &c. belonging to the Court of Appeals; the affiant being sworn, states, that he was near the office of the late clerk, when the sergeant of the court and others, acting under an order of Messrs. Barry, Haggin and Trimble, first broke it open; saw them and F. P. Blair moving the presses, papers and records, belonging to the court, to the office of Mr. Blair. He has frequently been in Blair's office, and seen various record books and papers, which belong to the Court of Appeals.

He has no doubt that the report made by him to the Court of Appeals, concerning said records, &c. is substantially true, al-

though some inconsiderable statements contained therein, were made from information only. He never has applied to Mr. Blair for the papers; but hasbeeninformed by the deputy sergeant who served the order and others, that he has repeatedly stated he would not deliver them.

Upon being interrogated, he further states, that Mr. Blair has kept the office in which the papers of the Court of Appeals are, closed the last four or five days, and he has heard as many as three persons complain, that they had claims to business in the office, and Mr. Blair or his assistants had refused them admission. That he was present in the circuit court office to-day, when a young man (whose name I believe is Cochran) applied to Mr. Blair for an execution. He replied, that an embargo had been laid on the office, (or something of that import,) and that he could not then issue it.

November 26th, 1825.

No. 4.

Questions by the Committee for Courts of Justice to F. P. Blair.

1. Were you present and aiding in taking from the office of the late clerk of the Court of Appeals, to wit, Achilles Sneed, the books, papers ,records and public property belonging to that office?

2. Have you now in your possession, those books, papers, public property, or any part of them; if not the whole, what part thereof have you, and what disposition has been made of the residue, and where are they?

3. Are you willing, and will you, upon the demand of the present clerk of that court, or any other agent on behalf of the court, deliver up the same, so far as they are in your possession, or will you refuse to do so?

4. Do you permit those records to be examined by persons interested in them, or have such persons been excluded from the office and from making such examination, and for what period of time has such exclusion been practised, and has such exclusion been partial or general?

J. J. CRITTENDEN, *Chairman.*

No. 5.

The answers of F. B. Blair to the questions of the Committee for Courts of Justice.

Willing to afford to the Legislature, or to either branch thereof, any information which may be deemed useful; but denying the power of either house, or of both united, to assume the judicial authority exerted in deciding upon my right to the office I hold, or the executive power which may be requisite to carry their decision into effect; denying the right of the committee to compel me

to give evidence against myself, in relation to a supposed malfeasance in office, by withholding public records and papers from the proper use and inspection of those who are entitled thereto, and protesting against the conclusion, that in responding to the questions proposed, I am bound to answer them or others of similar import, I shall freely and candidly proceed to respond to the interrogatories of the committee.

Answer to the first question. I was present and acted in executing the law and the order of court, authorizing the transfer of the books, records, papers and public property, belonging to the office of the late Court of Appeals, to that of the clerk appointed under the law approved December 24, 1824, re-organizing the Court of Appeals.

Answer to the second question. Those books, papers, records and public property, are yet under my care, control and custody.

Answer to the third question. If, in replying to this question, I should assent to the assumption on the part of the committee, that another individual, and not myself, was "*the present clerk of the Court of Appeals*," it would be an admission that a majority of one branch of the General Assembly, at this time, possessed the whole power of legislation, and were capable of defeating the law which received the sanction of the whole Legislature; a sanction comprising the authority of a House of Representatives, the constitutional power of which was not less than that of the present House of Representatives. The unsuccessful attempt recently made to repeal the law in question, has added the express recognition, and given the sanction of the present Legislature, to this act of the last. I will not, therefore, make the concession, that the committee of courts of justice, which is but a minute member of the legislative body, emanating from it, and effectuating its acts through its authority alone, can properly predicate its proceedings upon the annihilation of the will and power of that body on which it depends.

I will, however, give the information required, taking the meaning of the question rather from my knowledge of the private opinions of the individuals who propose it, than from the terms of the interrogatory, or the facts as they exist under the laws of the country.

I am not willing to deliver over to Jacob Swigert, the books, papers, records and public property, belonging to the office of the Court of Appeals, nor to any other agent for or on behalf of John Boyle, William Owsley and Benjamin Mills, Esqs. I have refused, and shall continue to refuse to deliver the same, upon the demand of these individuals, or any other unauthorised individuals, until the law under which I was appointed is repealed, and until some other person is lawfully empowered to receive them, when I can consistently with law, the condition of my bond, and

my oath as clerk of said court, deliver over said records, books, papers and public property, to such person. The reasons for my refusal, are more fully set forth in my response on that subject, addressed to said Benjamin Mills, John Boyle and William Owsley, a copy whereof is herewith respectfully submitted to the committee, as a part of my reply to this question.

Answer to the fourth question. I have, since my possession of said papers records, &c. suffered them to be examined by persons interested in them, until within a few days since, when, by threats of dispossessing me of those records, papers, &c. and delivering them over to another, without the authority of law, I was induced to shut my office, to secure them against impending violence and lawless invasion, the better to perform the condition of my bond, and my duties as clerk, and to avoid, as far as my foresight and prudent precaution could do, any breach of the public peace. Since that time, the same prudent precaution has induced me to preserve said records and papers in my particular safe-keeping, except when used in court.

The exclusion of persons from the papers, &c. has not been partial, but general. I have always acted towards every applicant, from the same motive.

If any public or private inconvenience shall result from these precautions, I trust I shall be able, whenever my conduct as clerk shall be the subject of judicial inquiry, to justify myself by the circumstances under which I have acted.

F. P. BLAIR.

Response referred to in answer to the third question of the Committee for Courts of Justice.

MESSRS. MILLS, BOYLE AND OWSLEY:

Gentlemen,

I have received a command from you, to deliver over to "Jacob Swigert," who, as your clerk, attests the order, on or before the first Friday in November next, the records, books, papers and other property belonging to the clerk of the Court of Appeals. I do not intend to comply with this order, or to recognize you as a tribunal before which I can be held to respond for a refusal to yield obedience to the mandate. It may then be considered decorous, to apprize you, as individuals, of the reasons by which my conduct is influenced, rather than to leave your demand unanswered, and give grounds to suppose, from a contemptuous silence, that I am wanting in respect to you personally, when I am actuated solely by the obligations of public duty.

Your demand is founded on the authority which you claim a right to exercise, as the court to which the records, &c. belong. If you *unquestionably* constituted in your *persons only*, the supreme

appellate court of the State, I could not properly for a moment hesitate to comply with your requisition. But the right you claim as being the only lawful Judges of that tribunal, is still questioned, nor do I know upon what good ground you now assume to decide in your own behalf, that question on which you have distinctly admitted your incompetency to act, and which you have expressly referred to the people for a decision. In your address "to the people of Kentucky," you have declared that the act establishing the new court, "is not one which regulates individual rights, such as Judges meet in deciding individual cases." You therefore decline deciding on its constitutionality as Judges, but expressly, to use your own language, "refer the important issue made up, not so much between the two courts as between the people and legislature, to the people themselves, who have their government in their own hands, and who can change it at pleasure." The people are certainly the final arbiters of all questions involving the construction of the constitution they have made, and can decide by their voice the dissentions which may arise between the several departments of their government, with regard to their respective powers. But while the government exists, the people themselves, either in changing or interpreting the constitution, must do it according to the forms of that constitution.

In a government like ours, *essentially representative*, the public will, in changing the constitution, can only be exerted by a convention, and when the people are called on to decide a question of construction merely, that decision can only obtain the force of law through the legislative body. If then, when you admitted that you were incompetent to decide this controversy, and referred your interest in it to be determined by the people, you expected their will to be known through their immediate organ, the General Assembly, the acts of power which you have since exercised as a tribunal, in the appointment of a clerk, in granting writs to suspend the judgments of inferior courts, and in demanding the delivery of the papers from me, are at least premature on your part, and altogether unexpected by the public.

The legislature has not acted and cannot act on the subject, previously to the time prescribed in your order for the surrender of the office of the Court of Appeals. If, however, you consider the question as referred to the people themselves, to be decided in proper person, and you have resumed the functions of a court, upon the supposition that they have decided in favor of the right you claim, surely nothing can be more unwarrantable than the presumption on your part that the people ever designed to act on this subject, otherwise than through the representative body, unless it be the right you have assumed, by your conduct, of declaring that decision from the evidences of the polls.

The question of the constitutionality of the late law was not separated from every other consideration by which the people are actuated in choosing their representatives. In every election, a multitude of mingled motives govern the decision of the elector in the choice of his public agent. Indeed, such a variety of topics are agitated during a canvass by the contending candidates, that it becomes a difficult task for the successful individual, instructed as he is by immediate intercourse with his constituents, to ascertain, even on those subjects to which the public feeling has been most awakened, the true sentiment of the majority of the people. In many counties during the last elections, individuals were elected of opposite opinions on the general question which divided the community.

On the agent elected devolves the duty of ascertaining the interest and inclination of his constituents; upon him devolves the responsibility of weighing the various motives which operated in bringing him to the station of senator or representative, and of deciding on the best means of discharging faithfully the functions confided to him; and his constituents, only by a direct vote of instruction, have a right to interpose and dictate, to the depository of their authority, how that power is to be employed. You who have appealed to this authority, have no right to declare its decisions, before those who bear it have had an opportunity to exert the power it confers. Upon the question which you seem to suppose was decided favorably to your power, by the suffrages of the people, no direct vote was ever taken at the polls. If the sense of the people had been thus expressly ascertained, it would have given you no authority to act on the information. Such votes have always been considered as instructions on the part of the people to their immediate representatives.

An election, therefore, however it may manifest public sentiment, decides nothing, but whether this or that individual shall be the interpreter of the people's will. You surely cannot pretend that you have been clothed with any authority by the late election to act in this capacity. Although by your conduct, you would force the inference that you were the sole expounders of that public opinion which is formed of the collected intelligence of a great community; yet I cannot consider you the medium by which that light is concentrated. It is not your province to scan the considerations which entered into and controlled the elections, to decide whether general or local interests, public, private, or personal motives, predominated in the minds of individuals, to produce the different results. It is not your duty to act even on the most explicit instructions given by the constituent to the representative body. By what right then, do you undertake to supersede by your measures, the measures which the people expect from the labors of their immediate agents?

The delicate and difficult task belongs to the General Assembly, to give efficacy, by their acts, to the various purposes on which the mind of the community has decided. That body is shortly to convene here to execute its functions.

But if you have the faculty and authority, by reading over the names of the individuals of which it consists, to anticipate its decisions upon the most important and interesting subjects, the expence and trouble incurred in bringing together its members from the various quarters of the state, and the labor of deliberation, are at once rendered unnecessary. This summary mode of executing the public will, however truly you may have ascertained it, cannot, I believe, be acquiesced in.

I must maintain, therefore, that the law, by virtue of which I hold the office of clerk of the Court of Appeals, is as yet unrepealed and unimpeached in its authority. It was enacted by the House of Representatives and the Senate, and received the confirmation of the Executive department. All these public functionaries act under oath, in the discharge of their official duties. Whenever a question of constitutional construction arises, they are bound, under its solemn sanction, to decide it according to the honest convictions of their understanding.

On the passage of this act, in every stage of its progress, its constitutionality was discussed, and after the fullest investigation and maturest deliberation, was finally decided. It was decided by those on whom the constitution itself imposed the duty to make the decision, and according to all the forms prescribed in that instrument. To every intent, then, this law ought to be considered valid and constitutional until repealed by some subsequent act of legislation, or annulled by the decision of the Judiciary department of the government. As a court, you have declared your incompetency to decide upon the constitutionality of this act. Indeed, the moment it became a law, you were no longer a Court. The judicial authority passed to other individuals, on whom devolved the duty of the judiciary in respect to this, in common with every other law. The new court, by carrying into effect the provisions of this law, have given to it, by their acts, the fullest confirmation which that department of the government can confer. It cannot be objected by you, that they are too much interested to act impartially. They are not more interested to support, than you are to put down the law. There is no difference between your conditions, but, that they act with the authority of a tribunal and you without it. The late act reorganizing the Court of Appeals has then received the sanction of every department of the government, the Executive, Legislative and Judicial; and, however some may condemn the law as unconstitutional, it is the duty of all to acquiesce in its operation, unless the supposed error is corrected, through the means furnished by the constitution.

When acting as the appellate tribunal, you gave, in the case of Lapsley and Brashear, a construction to the constitution, which defeated the long established power of the Legislature; a power which, as legislators, you had exercised, and which as judges, you had long recognised and respected in the administration of justice. There was a burst of disapprobation throughout the country. Your ablest friends disapproved the decision, and the people, through their representatives, again and again declared it a violation of the constitution; but did any one defy your authority or interpose to prevent the execution of the decision? No; although it was considered as wholly repugnant to the settled construction given to the constitution from its origin to the moment in which you entered your decree, it was followed by submission, as coming from the competent authority, and was executed without an effort at opposition.

As the government, through various channels, is made wholly responsible to the people, there is no evil which can spring up in its administration, to which an adequate remedy may not be applied through the healing power of the government itself. There is here no pretext for any individual to take the laws into his own keeping. There is no necessity for any one to step forward with a strong hand to protect the constitution against the government of his country. The constitution provides its own safeguard against invasion on the part of the public administration. By the perpetual renovation of the General Assembly, the voice of the people is continually heard to direct the movements of the system which they have formed by their constitution. Their power is the impulse which puts every thing in motion; their will is the influence which holds all parts in their orbit. Where then is the necessity that you should come forwad to resist the regularly constituted authorities of the government? Why do you endeavor to embarrass the operation of a law, by these extraordinary proceedings, which you are sensible cannot destroy its obligation, and which, if they have any effect, can serve only to produce disorder and violence? You know full well, that the questions of power which have originated on the passage of this act, are such as can only be settled by the sovereign authority of the State. The community, in the character of arbiter of its own government, has already taken the question under its cognizance. By what right do you now interpose and assume a jurisdiction which you ought long since to have abandoned? Do you expect that your interference, the embarrassment you may produce, the disorder and anarchy you may threaten, will compel those who are called to act upon this subject, to decide favorably to your pretensions, however unjust, rather than encounter the inconvenience which may arise from your resistance? By whatever motives you are actuated, whether to drive others from their duty, or to

do your own, I cannot, consistently with the obligations of the oath or the law under which I act, comply with your requisitions. To surrender the office at your bidding, would not only be treachery to those by whom, immediately, the trust was confided to me, but would be a sacrifice of my principles as a citizen, and those higher duties which I owe to my country.

No command shall induce me to abandon my office, unless it proceeds from an authority equivalent to that by which I obtained my right in it. You do not then, I am sure, expect me to yield obedience to your order, when you yourselves, have in fact submitted to that authority which forbids me to do the act, which you would seem to require. You have declared yourselves, as a tribunal, incapable of invalidating the law, by which the right I hold as an officer, has been conferred. You have ceased to transact business as a court; you have met at the stated periods for form sake merely; you have not ventured to decide a cause, even between individuals, and have put forth a public address, in which you appeal to the controlling power of the government, to reinstate you in that power of which you have acknowledged yourselves divested. The great organ of the government, which must finally decide on this appeal, has not yet spoken, and the right you have asserted, rests as yet, solely on the authority of the arguments on which you have relied to support it. As my individual interests in the result of this controversy, are as deeply implicated as yours; as my existence as a public officer is directly assailed by your late order, which doubtless you will attempt to justify on the reasons advanced in the publication which you have given to the world; you will not, I trust, consider it impertinent in me, to reply in vindication of my own rights, by a brief review of the positions you have taken in that document.

Your first position is, that the court of appeals is established by the constitution. To sustain this principle, you thus quote the constitution and argue from it:

"If, when the framers of the constitution say the legislative power shall be vested in two distinct branches, or houses, which shall be styled the General Assembly," they have thereby created the General Assembly; and if, when they say "the supreme executive power shall be vested in a chief magistrate, who shall be styled Governor," they have thereby created the office of Governor; upon what ground can it be urged, when they say "the judicial power of this Commonwealth shall be vested in one supreme court, which shall be styled the Court of Appeals," that they did not thereby create the Court of Appeals? It must and does inevitably follow that they have created all or neither."

On this I remark: 1st, That the words "shall be vested," (which you have marked in Italics, as the efficacious words in the passages quoted, and which you allude to as *creative and imperative*,) do not

create either of the three distinct departments "into which the government is divided by the first section of the constitution;" do not create either of the three "separate bodies of magistracy," to which these departments are therein expressly confided; nor do they create the offices they are to hold or the power they are to exert. The words "shall be vested," only direct the investiture of the several powers of the government, when they are defined, in the several bodies of magistracy, for the existence of which, and the offices they are to fill, a provision is necessary to be made, either by the constitution or by law. With regard to the legislative department, there are 29 sections in the constitution, subsequent to the first, which you have quoted, providing and defining the powers—providing for the existence of the separate body of magistracy who are to wield them, and providing the offices they are to hold, which are thus created by the constitution. With regard to the Executive, there are also 30 sections of the 3d article of the constitution, subsequently to that quoted by you, employed in establishing the office and its powers, and providing the means of bringing into existence the magistrate in whom the powers of the department are to be vested. With regard to the Judiciary department, all that which is specially executed in the constitution, creating the legislative and executive departments, is omitted in that instrument, and left by the Convention to be produced through the agency of the Legislature.

2d. The legislative and executive departments, as a consequence of this organization, thus given to them, are brought into full and perfect action by the operation of the provisions of the constitution itself. But no portion of the judiciary had any existence; no office was created, nor any officer appointed, until the Legislature, by its enactions, gave birth to the courts, both supreme and inferior.

3d. The quotation from the constitution, on which you found your conclusions in respect to the analogy existing between the judicial and other departments, is not a full and fair one. If it had been, your premises would have entirely failed you. The clause in question does not say that "the judicial power of this Commonwealth shall be vested in one supreme court, which shall be styled the Court of Appeals."—Here you stop; and if the constitution had stopped here, there would have been much more plausibility for your inference, and for many other arguments founded on the supposition that the Court of Appeals was the sole depository of the power of the judicial department. But the clause in the constitution does not stop where you have made it. If stripped of explanatory phrases, it is in substance as follows: "The judicial power shall be vested in one supreme and such inferior courts as the General Assembly may erect and establish." I present it in this naked and unincumbered state, that the con-

nection of the members of the sentence may be more apparent to the mind. It is not at all different in construction or meaning, from the clause taken exactly from the constitution, which will be found in the note below. It is perfectly clear, from the whole sentence taken together, that it directs that the power of the judicial department "*shall be vested*" in the inferior courts as well as the supreme court. If, then, as you contend, these words establish the supreme court, they must also establish the inferior courts, the identical words being equally applicable to both. But the concluding words of the clause destroy all pretext for your inference. Power is expressly given by it, to the General Assembly, to erect and establish the courts. And as the power "vested" in the court mentioned in the first member of the sentence, is conveyed to those mentioned in the last, by the copulative which unites them; so the power to establish the courts mentioned by the latter clause, is extended, by the same connection, to the court mentioned in the former.

4th. That you mistake, in supposing that the Court of Appeals is established by this clause in the constitution, is rendered apparent, from the uniform practice and construction given to another clause in that instrument. The 9th section of the 3d article gives power to the Governor "to nominate, and, by and with the consent of the Senate, to appoint all officers *whose offices are established by the constitution*, or shall *be established by law*, whose appointments are not herein otherwise provided for." Under this clause, which is taken from a similar provision in the constitution of the United States, a very interesting question arose, with regard to the powers of the President in appointing ambassadors. If it had been decided that the office of ambassador was to be established by law, it would have followed, that the President could never have appointed such officers, unless authorised by an act of Congress; but it was decided otherwise, and he may appoint as many ambassadors as he chooses.

So, with regard to the Judges of the supreme court. If the office of Judge be established by the constitution, it follows, that the President or Governor might appoint as many as they should deem necessary. But the uniform practice of the administration of both the General and State governments has settled that the office of Judge of the supreme court in each, is created by law, and not by the constitution. No Judge was ever appointed by the President, until the office was expressly created by a statute. No Judge of the court of appeals was ever appointed by the Governor of Kentucky, until the office was created, and the appointment was expressly authorised by law; and the number of Judges on the appellate bench in this State, has been increased and diminished, as the Legislature hath, from time to time, directed by law, and not according to the will and pleasure of the Executive.

5th. Your doctrine, that the court of appeals was established by the constitution, is opposed by the cotemporaneous construction given to that instrument. If the first Legislature which sat in Kentucky had considered the Court of Appeals as already established by the constitution, they would not have attempted to do what had already been done by the highest authority. Many of the members who sat in Convention, were members of the first General Assembly. They knew that no court had been established by the Convention, and every member knew that there existed no such tribunal in the State. Accordingly, among the first acts of the Legislature, was the introduction, on the 14th June, of bills establishing county courts, courts of quarter sessions and courts of oyer and terminer; and also, *a bill to establish the Court of Appeals*. Those bills were, by the order of the house, prepared by George Nicholas, the most eminent lawyer of Kentucky, who was most singularly exact in the application of appropriate language to give precise power and meaning to every paper which fell from his hand. He called the bill prepared by him, "a bill to establish the Court of Appeals." It appears from the Journals that it was so entitled in all the stages through which it passed, and that, on the 20th of June, on its passage, it was

"*Resolved*, That the bill do pass, and that the title be "an act establishing a Court of Appeals."

It received this title by an unanimous vote in both houses, and every subsequent act of legislation referring to this subject, has recognized this act as *establishing the Court of Appeals*.

6th. In the case of Moore *vs.* Gorin, decided in 1822, you have yourselves *thrice* referred to this act "*as establishing the Court of Appeals*."

7th. It is known and acknowledged by you, that the clause in the constitution of the United States, with regard to the judiciary, is exactly like that of the constitution of Kentucky, and that the supreme court of the United States and of this State, are both of constitutional creation, or are both created by statute. But it is expressly declared in the act of congress which gave birth to the supreme court, the district court, and circuit courts, that it is "*an act to establish the judicial courts of the United States*," placing all courts on the same footing.

8th. The supreme court of the United States, in the case of Durosseau *vs.* the United States, (6th Cranch, 313,) have there recognized the doctrine, (to use their own words,) that the Legislature possess the power "to create" that court. It is evident from subsequent passages in the same opinion, that they employ the word "create," to designate that complete power, which it is acknowledged on all sides that the Legislature possess over the inferior courts. The Chief Justice, in speaking of the power of Congress over the inferior courts, uses the same word, "create,"

in relation to them, which he had before applied in relation to the supreme court.

9th. It is known that the question of the legislative power over the judicial department was most elaborately, zealously, and ably debated in the Congress of the United States, during the session in which the Judges appointed by President Adams were removed from office by repealing their offices. Mr. Breckinridge was the mover of this measure in the Senate of the United States, at the instance of Mr. Jefferson, the President, and assumed as the foundation of the authority of Congress over the judiciary department, the broad ground that "*the courts are organized and established by the Legislature*," and that the Executive creates the Judges.

10th. Mr. Giles was the leader of the republican party in the House of Representatives, who advocated the removal of the Judges by the repeal of the law establishing the courts. In the following quotation will be found direct testimony in point of fact, with regard to the different opinions entertained by the contending parties in Congress; a direct authority with regard to the power of the Legislature to establish the supreme court, and a complete refutation of the views taken by you on the argument I have quoted from your address, to which these remarks are intended as a reply. After analizing the constitution and shewing the perfect manner in which it established and organized the legislative and executive departments, he goes on to say, "a third department, to wit, the judiciary department, is still wanting. Is that formed by the constitution? How is that to be formed? It is not formed by the constitution. It is only declared that there shall be such a department; and it is directed to be formed by the other two departments, who owe a responsibility to the people. *Here there arises an important difference of opinion between the different sides of this house.* It is contended on one side, that the Judicary department is formed by the *constitution itself.* It is contended on the other side, that the *constitution does no more than declare that there shall be a judiciary department*, and directs that it shall be formed by the other two departments, under certain modifications. Art. 3, Sec. 1, the constitution has these words: "The Judicial power of the United States shall be vested in one supreme court and in such other inferior courts as Congress may, from time to time, ordain and establish." Here then is power to establish one supreme court."

11th. In confirmation of the fact that the whole republican party in the House of Representatives in Congress, supported the doctrine that the Legislature had a right to establish and to abolish both the supreme and inferior courts, I give the following quotation from the speech of Mr. Griswold: "Before I enter (said Mr. Griswold.) into a particular consideration of the arguments of gentlemen, I take the liberty of saying that gentlemen *in this house*

whatever may have been done in another place, have placed the question, in one respect, upon its true ground. *They have made no distinction between the authority of the Legislature over the Judges of the supreme and inferior courts;* all their arguments have gone to prove that no such distinction can exist. Indeed, sir, it is impossible to conceive the shadow of a difference."

As Mr. Griswold, an eminent federalist, was opposed to the repealing power of Congress over the Judiciary, this quotation shows that in the House of Representatives *both parties* concurred in the opinion that the supreme and inferior courts were precisely on the same footing, and that if the Legislature had a right to remove the inferior Judges by repealing the law, they had the same right to remove the Judges of the supreme court in the same way. The principle, therefore, that all the Judges, of whatever grade, were removable by repealing the law establishing their offices, was carried by a vote of 60 to 34; and in the Senate, only two individuals, Mr. Mason and Mr. Jackson, (whom you have quoted,) dissented from the general opinion expressed throughout the debate, that the whole Judiciary department rested on the same foundation. To this singularity of these individual members of the Senate, Mr. Griswold alludes in the passage taken from his speech, as will be seen from the words marked in Italics.

12th. Mr. Gallatin, in debating the question of the power of the President, makes this declaration, after quoting the language of the constitution in regard to the supreme court: "It has not been contended that the office of Judge of the supreme court was created by the constitution, or could be created by the mere appointment of the President, without the previous authorisation of a law."

If, in opposition to your doctrine, which rests solely on your reasoning, unsupported by a solitary precedent, this mass of authority of the highest grade should be considered sufficient to prove that the Court of Appeals is established by the Legislature, there is an end of the controversy.

"You have yourselves declared, in your address, that when the Legislature have power to create a court, they have, no doubt, power to abolish it; and when they abolish one, they may create another with the same style and jurisdiction; and they may again abolish the latter, and establish a third in its place, and so on in endless succession. But if all regard to precedent and authority should be abandoned; if the opinions and declarations of the ablest and wisest men, when no party spirit existed to warp their judgments, should be unavailing; if your own direct assertion, in a solemn adjudication before this controversy commenced, should weigh nothing, and if the assertion of the right by Congress and by the State Legislature, in the most explicit terms, and an unqualified admission of the power of creating the court, as belong-

ing to the Legislature, on the part of the Supreme Court of the Union itself, should not be adequate to turn the scale against your argument, permit me to offer some considerations in opposition to it, springing from the concessions of the argument itself.

1st. You expressly admit that the inferior courts may be abolished by the act of the Legislature. Analogy will show, that if the inferior courts can thus be abolished and re-established, the appellate court may also be abolished and re-established by the act of the Legislature.

The same clause in the constitution, and by the same words, vests the judicial department in both species of courts. An act of the same Legislature brought both courts into existence, and provided their powers, officers, and their organization. The Judges are appointed in the same way, and hold their appointments by the same tenure. Why, then, may not the Legislature repeal the law which it passed, in regard to the supreme court, as you admit it may repeal that which it passed in regard to the inferior court, and thus place the tribunals precisely as they were under the constitution, before either of the acts passed? How does it become unconstitutional to repeal a law, and put the courts in the condition in which they were left by the constitution itself?

You declare explicitly, that whatever the legislature "creates" it may "abolish." How then can you deny its power to repeal the law which it created, establishing the Court of Appeals?

2d. You say, "that it is true that the number of Judges of the Supreme Court is in the power of the Legislature; but when once fixed, it cannot be lessened, *except the office to be taken away is vacant.*" Now, you distinctly admit, that if the office of Judge of the Court of Appeals is vacant, it may be abolished. If then all the Judges were to resign, could not all the offices be abolished and an entirely new system be introduced? Might not the court be entirely changed, the old system be abolished, and the Judges of the circuit courts be convened together to form a Court of Appeals, as in the case of the Supreme Court of the United States? From your concession then it appears, that the whole system of the Court of Appeals might be discontinued but for the tenure by which you hold your offices. But the words of the constitution will show that you have quite mistaken your right of tenure. It is thus explicitly set down in that instrument: "The Judges shall hold their offices during good behavior and *the continuance of their respective courts.*" It appears that you are not to hold your offices so long as you choose to *continue*, but so long as the court *continues*. Both from your admission and the terms of the constitution, it is clear then that the court may be discontinued, by which event your tenure in the office is destroyed. From this it is evident, that the power to discontinue the court,

does not depend on your vacating the office, as you suppose, but that the legislature have the power to vacate your right to hold as Judges, by *discontinuing the court*. Surely nothing could be more absurd in the convention, than to make your right to hold the office depend on the continuance of the court, if the court could not be discontinued until the offices had become vacant.

3d. Although it is universally admitted, that you hold your offices by the same tenure that the Judges of the inferior courts hold their offices, and although it is also admitted that the Judges of the inferior courts can be removed in three ways, by impeachment, by address, and as you expressly declare, by discontinuing their courts, yet your friends deny that you can be removed by discontinuing the court, because you may be removed by impeachment or address! Surely this argument from such premises involves an absurdity. All the Judges holding their offices by the same tenure, if it be argued that because there are two direct modes of removal, there cannot exist a third by discontinuing the courts, the same reason will hold equally as to all. There is as much reason to say, that the inferior judges can only be removed by two thirds, on an impeachment or address, as to say that the Judges of the Court of Appeals can only be removed in those modes. Every Judge in the State is equally liable to be removed for incapacity or crime, by address or impeachment. In addition to this mode of reaching individuals, all the Judges may be removed at once, by discontinuing the courts. May not then the three modes of removal apply to the Judges of the Court of Appeals as well as to the inferior courts?

In various parts of your response and in your address, you attempt to show, that the judiciary ought to be independent of the legislature, and draw an inference from that circumstance, that the constitution has rendered them independent. You have said, "that if it should be conceded you erred in your decisions, by a mistake of the head and not of the heart, it would furnish no ground for legislative interposition, or authorize your removal;" you have said, "that the attempt" was calculated to shake the independence and firmness of the judiciary, and "to blend the powers of government;" and you have said, "that the late law is a fearful blow aimed at the fundamental principles of our government, and sweeps off a department necessary to freedom." You say, that "Great Britain boasts of more freedom than any other monarchy," and attribute it to the fact, that she has "an independent judiciary."

In reply to these remarks on the subject of the independence of the judiciary, I offer you the following considerations:

1st. The judiciary was never, in any country, independent of the legislative authority. In Great Britain, where you say the greatest benefits have resulted from the independence of this de-

partment, it has always been wholly dependent upon the will of a bare majority of parliament.

2d. If the judiciary were not dependent on the legislature, and through the legislature made responsible to the people, it would inevitably follow, that the legislature and the people would be both rendered dependent on the judiciary. In having the power to construe the constitution and administer the laws, the government and the laws would be wholly subject to the bias of the peculiar opinions of the Judges, and we should, if there was no means of correcting their errors and mistakes, be governed, not by the law or the constitution, but by the *uncontrollable opinion of irresponsible Judges.*

3d. In admitting that the Judges of the inferior courts are dependent on the legislature, you admit, in effect, that the whole department is subject to it. You know that the legislative body can limit the appellate jurisdiction to so narrow a compass, that its operation would not be felt in the government. The jurisdiction of the appellate court is expressly subjected by the constitution to such regulations and restrictions as may from time to time be prescribed by law.

In fact, much the greatest portion of the judicial power is placed in the inferior courts. Besides the disputes with regard to property, which are finally decided in those tribunals, all questions concerning the life and liberty of the citizen, are decided in them without appeal. It is not, then, an unimportant mistake which you have made throughout your address, (and which your friends make in every discussion,) when you consider the appellate court as the sole depository of all the power of the judiciary department, when it is in fact the least part of it, and may be made still less.

4th. That independence on the behalf of the Court of Appeals, which prevents the legislature from changing the system as the wants of society might require, or experience point out defects in its original organization, would defeat the most obvious intentions of the convention. That body was provided with ample legislative powers, and would doubtless have established the courts in the perfect manner in which the other departments exist in the constitution, if it had not been anticipated that in leaving it to the legislative body created by that instrument, the judiciary might undergo such changes as the circumstances and the wisdom of the people might require. The only power which you allow to the legislature in modifying the system with respect to the members of courts, is dangerous rather than advantageous. You say "the legislature may add to, but cannot legislate out of office, any one of the incumbents." If then a desperate party in a legislature were to incumber the bench with fifty Judges, no future legislature, however instructed and desired by their

constituents, could ever remove them. According to your doctrine, they cannot be removed by address or impeachment, without committing some fault, and if they were, unless the offices could be repealed, which you deny, the Governor might immediately fill the office from which they were removed. According to your construction of the constitution, if the federalists in the period of Mr. Adams' administration, had, instead of making sixteen judicial offices in the inferior courts to provide for themselves at the moment they were about to lose their power, made sixty Judges of the Supreme Court, with salaries of $5,000 each, neither the salaries nor the Judges could ever have been shaken off by Congress during the lives of the Judges.

By the constitution of the United States, a Judge's salary cannot be diminished while in office, nor can a Judge be addressed out of office; and unless the system can be reformed by law, the Judge can never lose either his salary or his office, without he forfeit them by a crime or misdemeanor, upon impeachment. The power of repeal is therefore necessary, not only to reform judicial, but the most dangerous legislative abuses.

5th. That the dangers you apprehend if the constitution should provide for what I contend, are all ideal, is shown from the fact that it has prevailed in many of the States, and no mischiefs have occurred. The independence of the judiciary has not been destroyed, nor have the powers of the departments been blended. New-Hampshire, Massachusetts, Connecticut, Tennessee, South-Carolina, and many other States, have, by their constitutions, expressly empowered their legislatures to change the whole judicial department, whenever their discretion should direct; and in many of these States, this salutary power has already been exercised to advantage.

There is another aspect of this subject from which it is presumed you cannot yourselves dissent. You have repeatedly decided, when you sat in the capacity of Judges of the Court of Appeals, that although a law might be unconstitutional in some respects, yet that every portion of such law which the legislature were competent to pass, was valid and to be effectuated. In the celebrated case of Lapsley and Brashear, you declare the replevin law to be *unconstitutional* in its retrospective aspect, and yet decide that it is constitutional as to its effect on future contracts. In giving the law this construction, you perfectly understood that the *main intention* of the legislature in passing it, was wholly defeated.

In the case of Ely *vs.* Thompson, 3d Marshall 731, you say, that "it was competent for the legislature in the same act to repeal any former one within its purview, *although every provision in the repealing act was unconstitutional.*" Here then it is evident, that whenever the primary object of any statute is defeated becaus-

of the unconstitutionality of its provisions, yet even the repealing clause may be valid, although it is solely founded on the supposition that the statute repealed, is supplied by that which is enacted. Apply these principles to the late law reorganizing the Court of Appeals, and it follows that every act in relation to that court which preceded the last, is repealed, and by your own construction, that all the provisions of the late laws, so far as they are in the power of legislation to make them, are constitutional, and to have full force and effect. If then the grounds you have assumed to show that you are not removed as Judges by this law be tenable, it follows notwithstanding, that every other portion which can be carried into effect consistently with the constitution, must be effectuated by the principles of your own decisions. You have expressly declared in your address, that the legislature can increase the number of the Judges of the Court of Appeals. How then can you say, that the four Judges whom the late law authorizes the Governor to appoint, are not lawful Judges? They have been nominated to and confirmed by the Senate, and have in their commissions, every evidence of title to office which you at any time possessed. It is no reply to this plain and inevitable deduction, that one of them bears the title of Chief Justice, and that the others are styled 1st, 2d and 3d associate Judges. These distinctions are not of constitutional origin. If the legislature were to lay off the territory west of the Tennessee river, into four other judicial districts, and four circuit Judges were appointed in that section, whose commissions gave them the appellations of Judges of the 1st, 2d, 3d and 4th judicial districts, it would not be contended that they were not lawful judges, because there were other judges who have the same titles. It does not follow that the same name makes the same thing. The numerals attached to the Judges' commissions do not affect their power. Surely he that sticks in a figure may be said to stick in the letter.

Here you must not understand me as urging my own arguments. I do but urge those of some of the ablest individuals who advocate your pretensions. I myself heard them advanced by the most illustrious citizen of our State, who at the same time declared that they had been suggested by the head of the judiciary—by Chief Justice Marshall himself. Holding, then, the office of clerk of the Court of Appeals, by the appointment and confirmation of four Judges of the court, I have a right to retain the office, in opposition to an individual whose claim has since originated on the authority of three questionable voices.

In the case of the justices of Jefferson *vs.* Clark, (Mon. Rep. 82) you decided that although Clark's appointment by the Governor as a justice of the peace, was *unconstitutional*, yet you say, that his "official acts are no doubt valid, for it has been repeat-

edly decided by this court, that the acts of *an officer de facto are* not void." The principle here decided is one recognized in every government. It is necessary to the peace and repose of society, that the rights of individuals forming the great mass of society, should not suffer change by the contests and consequent mutations in the rights of the few who administer their affairs. If, therefore, one court should bear sway one year, and another the next, and so alternately for years in succession, until the question of constitutional right should be settled by some final decision, it would not do to turn back the tide of human affairs, to tear down all that had grown up under such circumstances, and convulse society to accommodate government to Eutopian speculations. But if it were desirable, it is not possible. Much that is done, never can be undone. You could not, if acknowledged to be the constitutional court, reach much of that which has been executed by the present tribunal. If then you were reinstated, you would not have power to touch any of its proceedings. Upon this ground, I have a right to hold the papers as clerk, and if I am not entitled to retain them in that right, I contend that the legislature has power to submit the public archives to the custody of such person as it may designate, for their safe keeping; and having invested me with the possession, I am shielded and authorized by law in resisting all attempts to take them out of my control. But whenever the law shall make a different disposition of the papers, I will cheefully yield submission.

In conclusion, gentlemen, let me assure you, that however adverse your pretensions are to my interests or opinions, that circumstance has produced no hostility in my feelings towards you personally. If any thing should be found in this communication wounding to your feelings, attribute it to the character of the controversy itself. I regret that this war should have been waged so long with poisoned arrows and savage feelings. I have no venom in my heart to supply such weapons; no malice to induce me to employ them. What I have said bluntly, is not intended wantonly; it is the result of a frank and fearless manner, and in the same sincere spirit, I assure you, I wish you health and happiness, and success in every thing that is compatible with the interests of the country.

I am, gentlemen, your most, &c.

F. P. BLAIR, *C. C. A.*

It was then moved and seconded to lay the said report and resolutions on the table; and the question being taken thereon, it was decided in the negative, the house being equally divided.

The yeas and nays being required thereon, by Messrs. Nuttall and Hanson, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, John J. Allin, Barbee, Blackburn, Brown, Carter, Clay, Chenowith, Coombs, Cosby, Crittenden, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Harvey, Haskin, Hutchison, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Morris, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Street, Tarlton, Thomas, Thomasson, Wade, Ward, E. Watkins and S. White—47.

NAYS—Messrs. Bainbridge, Breck, Bruce, Bruton, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, James, Logan, Marshall, Mayes, M'Connell, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—47.

The question was then taken on the adoption of the first resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. M'Connell and Marshall, were as follows, viz:

YEAS—Mr. Speaker, Messrs James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Brown, Bruce, Bruton, Clay, Chenowith, Coombs, Cosby, Cowan, Cox, Crittenden, Cunningham, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, Mayes, M'Clanahan, M'Cormas, M'Connell, Miller, Morris, Mullens, New, Nuttall, Owings, Owsley, Payne, Perrin, Porter, Prince, Reed, Samuel, Sanders, Skyles, Slaughter, Spalding, Stephens, Sterrett, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, A. White, S. White, Woodson and Yantis—92.

The question was then put on adopting the second resolution, which was decided in the affimative.

The yeas and nays being required thereon, by Messrs. Hardin and Cosby, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Prince, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—59.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, Mullens, Nuttall, Perrin, Porter, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—33.

The question was then put on adopting the third resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Spalding and Bruce, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—59.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Thomas, Wade, Ward, E. Watkins and S. White—33.

The question was then put on adopting the fourth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. M'Connell, and Duke, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—58.

NAYS—Messrs. J. J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—34.

The question was then taken on adopting the fifth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Marshall and Bainbridge, were as follows:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—55.

NAYS—Messrs. James Allen, John J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Dyer, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Skyles, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—38.

The question was then taken on adopting the sixth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. M'Connell and Cosby, were as follows, to wit:

YEAS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Brown, Bruce, Bruton, Carter, Clay, Chenowith, Coombs, Cosby, Cowan, Cox, Crittenden, Cunningham, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, Mayes, M'Clanahan, M'Cormas, M'Connell, Miller, M'Millan, Morris, Mullens, New, Nuttall, Owings, Owsley, Payne, Perrin, Porter, Prince, Reed, Samuel, Sanders, Skyles, Slaughter, Spalding, Stephens, Sterrett, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson,

True, Turner, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, A. White, S. White, Woodson and Yantis—94.

It was then moved and seconded to amend the said resolutions, by adding thereto the following resolution, to wit:

Resolved, That the good people of this Commonwealth having, at the last election, decided that said act is unconstitutional, said decision ought to be obligatory upon the Governor, Lieutenant Governor, and each branch of the Legislature.

And the question being taken on adopting the said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Marshall and Logan, were as follows:

Yeas—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—58.

Nays—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Street, Thomas, Wade, Ward, E. Watkins and S. White—33.

Mr. Underwood, from the committee for courts of justice, to whom were referred the preamble and resolutions offered by Mr. Marshall on the 25th ult. reported the same with amendments to the third resolution, which were twice read and concurred in, and said third resolution amended to read as follows, viz:

Resolved further, That the resignation of the Governor, Senators and Representatives ought to take place immediately after the adjournment of the present session of the Legislature, and that in corresponding with the different officers aforesaid, the committee will ascertain from each one distinctly, whether he will resign at that time. And that the Lieutenant Governor and Judges will resign their offices on the third Monday of May next. Previous to which time, however, the Lieutenant Governor will, as acting Governor, issue writs of election to fill the vacancies in each house of the Legislature, occasioned by the resignations aforesaid, the elections to be held on the first Monday in May; and that he will issue his proclamation convening the Legislature on the third Tuesday of May.

Mr. Ward moved further to amend said resolutions to read as follows:

Therefore, *Be it resolved*, That it is the opinion of this General Assembly, that the crisis has arrived which will induce every lover of his country, to surrender and sacrifice to the public good, every consideration of a personal or selfish character, and that therefore, the judges of the old and of the new Court of Appeals ought to resign their respective offices, and thereby put it in the power of the people to settle this question according to their own will, and to restore peace and harmony to a distracted country.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Ward and Wade, were as follows, viz.

YEAS—Messrs. Barbee, Carter, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Nuttall, Perrin, Porter, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins and S. White—32.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—58.

Mr. Haskin moved to attach thereto, by way of amendment, the following resolution:

And be it further resolved, That if the resignation of the Governor and Lieutenant-Governor take place as contemplated above, writs of election, as aforesaid, shall issue to fill their said offices at the next election.

And the question being taken on agreeing to the said amendment, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Haskin and Wade, were as follows, viz.

YEAS—Messrs. Carter, Chenowith, Coombs, Davis Elliston, Fletcher, Fulton, Gordon, Haskin, Lackey, Lee, Martin, M'Clanahan, M'Millan, Mullens, Nuttall, Perrin, Porter, Samuel, Sanders, Stephens, Tarlton, Thomas, Waddell, Wade, Ward, E. Watkins and S. White—28.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Blackburn, Breck, Brown, Bruce, Bruton, Coleman, Cosby, Cowan, Cox, Cunningham, Duke, Dunlap, Dyer,

Evans, Farmer, Ford, Gibson, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Maupin, Mayes, M'Connell, Miller, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—61.

Mr. Spalding then moved to attach to said resolutions, by way of amendment, the following resolution:

And be it further resolved, That each member of the present Legislature, pledge themselves not to be candidates for the next Legislature, nor for any office in the executive or judicial department.

And the question being taken on adopting the said amendment, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Chenowith and Spalding, were as follows, viz.

Yeas—Messrs. Barbee, Bruton, Chenowith, Coombs, Elliston, Farmer, Fletcher, Fulton, Haskin, Marshall, Martin, Maupin, Nuttall, Perrin, Porter, Sanders, Spalding, Stephens, Tarlton, Thomas, Thomasson and S. White—22.

Nays—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Carter, Coleman, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Hutchison, James, Lackey, Lee, Logan, Mayes, M'Clanahan, M'Cormas, M'Connell, Miller, M'Millan, Morris, Mullens, Owings, Owsley, Payne, Samuel, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, A. White, Woodson and Yantis—66.

The question was then taken upon adopting the said preamble and resolutions, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Underwood and Marshall, were as follows, viz.

Yeas—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Brown, Bruce, Bruton, Carter, Coleman, Cosby, Cowan, Cox, Cunningham, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Lee, Logan, Marshall, Maupin, Mayes, M'Connell, Miller, Morris, Mullens, New, Nuttall, Owings, Owsley, Payne, Perrin, Porter, Reed, Samuel, Skyles, Slaughter, Spalding, Stephens, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Wad-

dell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—75.

Nays—Messrs. John J. Allin, Barbee, Chenowith, Coombs, Fletcher, Fulton, Haskin, Lackey, Martin, M'Cormas, M'Millan, Sanders, Wade, Ward, E. Watkins and S. White—16.

Ordered, That Mr. Marshall carry the same to the Senate and request their concurrence.

The Speaker laid before the house a letter from the public printers, enclosing their account against the Commonwealth for the last year, ending on the 10th day of October last; which was received, read and referred to the committee of ways and means.

And then the house adjourned.

FRIDAY, DECEMBER 2, 1825.

Mr. Stephens presented the petition of sundry citizens of the town of Covington, Campbell county, praying that the laws regulating said town may be amended.

Mr. James presented the petition of Philip Kenbal, praying a divorce from his wife Fanny, late Fanny Loveless.

And Mr. Chenowith presented the petition of sundry citizens of Meade county, praying the establishment of an election precinct therein.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; the second to the committee of religion, and the third to a select committee of Messrs. Chenowith, Martin and Hardin.

Mr. Prince, from the joint committee of enrolments, reported, that the committee had examined an enrolled bill and resolutions of the following titles, and had found the same truly enrolled, viz: An act for the benefit of Goodman Oldham; a resolution for appointing a joint committee to examine and report the situation of the Lunatic Asylum and the Transylvania University; and a resolution for appointing joint committees to examine the reports of the Bank of the Commonwealth and Branches.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Hardin moved the following resolution:

Resolved, That hereafter during the present session, the hour to which the house shall stand adjourned each day, shall be 10 o'clock, A. M. which being twice read, was adopted.

Mr. Thomasson presented the petition of sundry citizens of Jefferson county, praying that a law may pass to appoint additional Trustees to the Jefferson Seminary.

Which was received, read and referred to a select committee of Messrs. Thomasson, Brown and R. Taylor.

Mr. Cosby, from the committee of privileges and elections, made the following report, viz:

The committee of privileges and elections have, according to order, had under consideration the returns from the sheriffs of the several counties within this Commonwealth, and having examined the same, have agreed to the following report, to wit:

It appears to this committee, that the following gentlemen were returned as duly elected, to serve as members of the House of Representatives, for the present General Assembly, to wit:

From the county of Adair, Cyrus Walker and Zachariah Taylor; from the county of Allen, Walter Thomas; from the county of Bourbon, Henry Timberlake, William Hutchison and Thomas C. Owings; from the county of Bath, Thomas Fletcher; from the county of Barren, Michael W. Hall and Robert D. Maupin; from the county of Bullitt, Lewis Wilcoxen; from the county of Breckinridge, John Sterrett; from the county of Boone, John P. Gaines; from the county of Bracken, Solomon Carter; from the county of Butler, John Porter; from the counties of Clay and Perry, Alexander White; from the county of Caldwell, Enoch Prince; from the county of Clarke, Silas Evans and Samuel Hanson; from the county of Campbell, Leonard Stephens; from the county of Christian, Daniel Mayes; from the county of Cumberland, Joel Owsley; from the county of Casey, Benjamin W. Napier; from the county of Daveiss, Nestor Clay; from the county of Estill, Anselm Daniel; from the county of Fayette, Robert J. Breckinridge, Henry C. Payne and James True; from the counties of Floyd and Pike, Alexander Lackey; from the county of Fleming, Martin P. Marshall and Richard R. Lee; from the county of Franklin, John J. Crittenden and Lewis Sanders, Jr.; from the county of Grayson and part of Edmondson, Jeremiah Cox; from the county of Greenup, John M. M'Connell; from the county of Garrard, George Robertson and John Yantis; from the county of Green, Elias Barbee and Samuel White; from the county of Gallatin, David Gibson; from the county of Grant, James Elliston; from the counties of Hardin and Meade, Isaac C. Chenowith and Robert Martin; from the county of Harrison, Josephus Perrin and Nicholas D. Coleman; from the county of Henry, Robert Samuel and Elijah F. Nuttall; from the county of Henderson, George Morris; from the county of Hopkins, John Harvey; from the counties of Hickman, Calloway, Graves and M'Cracken, Thomas James; from the counties of Harlan and Knox, James Farmer; from the county of Hart and part of Edmondson, Adin Coombs; from the counties of Jefferson and Oldham, Richard Taylor, Samuel M. Brown and William P. Thomasson; from the county of Jessamine, Samuel H. Woodson; from the county of Lincoln, John Green; from the county of Logan, James Wilson; from the county of Livingston, William Gordon; from the county of Lewis, Alexander

Bruce; from the counties of Lawrence and Morgan, Elisha M'Cormas; from the county of Madison, Squire Turner, Daniel Breck and David Bruton; from the county of Mason, Robert Taylor and James W. Waddell; from the county of Mercer, John J. Allin, William Wade and Joseph Haskin; from the county of Muhlenburg, Edmund Watkins; from the county of Montgomery, John B. Duke and Amos Davis; from the county of Monroe, James M'Millan; from the county of Nelson and part of Spencer, Benjamin Hardin and James Allen; from the county of Nicholas, Samuel Fulton and William M'Clanahan; from the county of Ohio, Dillis Dyer; from the county of Owen, Cyrus Wingate; from the county of Pendleton, Stephen Mullens; from the county of Pulaski, Charles M. Cunningham and John Cowan; from the county of Rockcastle, John H. Slaughter; from the county of Scott, Robert J. Ward and James Tarlton; from the county of Shelby and part of Spencer, John Logan, Alexander Reed and James Ford; from the county of Simpson, James Miller; from the county of Trigg, George Street; from the county of Todd, Richard B. New; from the county of Union, William Spalding; from the county of Woodford, Alexander Dunlap and William B. Blackburn; from the county of Warren and part of Edmondson, Joseph R. Underwood and James R. Skyles; from the county of Wayne, Thomas Hansford; from the county of Washington, Samuel Grundy, Dabney C. Cosby and John W. Bainbridge; and from the county of Whitley, Baker E. Watkins.

Which was received and laid on the table.

Mr. Mayes, from the committee of religion, made the following report:

The committee of religion have, according to order, had under consideration certain petitions to them referred, and have come to the following resolutions thereon, to wit:

1. *Resolved*, That the petition of Stephen Marcum, praying a divorce from his wife, Elizabeth Marcum, *be rejected*.

2. *Resolved*, That the petition of Caty Wilkles, *alias* Caty Read, praying a divorce from her husband, David Wilkles, *be rejected*.

3. *Resolved*, That the petition of John Jones, praying a divorce from his wife, Anne Jones, *be rejected*.

4. *Resolved*, That the petition of Robert Love, praying a divorce from his wife, Rusha Love, *be rejected*.

Which being twice read, the 1st, 2d and 3d resolutions were concurred in, and the 4th laid on the table.

Mr. Green, from the select committee to whom was referred the message of the Governor in relation to the road leading from Danville in the direction of Murfreesborough, Tennessee, made the following report:

The committee to whom was referred the message of the Governor in relation to the road from Danville to the Tennessee line, in the direction of Murfreesborough, would respectfully report;

That although an answer has not yet been received from the Executive of Tennessee, to the communication made him by the Governor, in relation to the desired continuation of the road through Tennessee, your committee feel persuaded, that the government of Tennessee cannot fail to perceive the utility of such a road to her own citizens, and will, in due time, take the necessary steps to meet the wishes of Kentucky on that subject. We presume, that the making of State roads is, in Tennessee, as with us, the subject-matter of legislation, and that the Governor has delayed his answer until the meeting of the Legislature of that State would afford him an opportunity of communicating the result of their deliberations on the subject, to our government. Such a communication, your committee believe, may be shortly expected.

Your committee have thought it proper for them to enquire, whether the law of the last session of the Legislature, providing for the appointment of overseers and the opening of said road, had been carried into effect, and have ascertained that the law has been substantially complied with in the counties of Lincoln, Casey and Monroe, and that most of that part of the road which passes through Adair county, has been cut out; but they have learned, that the part of said road which passes through Barren county, has not been opened, and no step has been taken in that county to comply with the law. They have, therefore, thought it their duty to report a bill to ensure a compliance with the intentions of the Legislature.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill for the benefit of the Simpson Seminary.

2. A bill to authorise a sale of a part of the public square in the town of Hartford.

3. A bill to provide for running the line between the counties of Shelby and Spencer.

By Mr. Underwood—4. A bill to alter the time of holding the Hart circuit and county courts, and to legalize the proceedings of the county court of said county, and also, to alter the time of holding the circuit and county courts of Edmondson, and to provide for running the lines of said county.

By Mr. Green—5. A bill concerning the road from Danville to the Tennessee line, in the direction to Murfreesborough.

By Mr. Brown—6. A bill to authorise the publication of advertisements, &c. in certain newspapers.

By Mr. M'Millan—7. A bill for the appointment of trustees for the town of Pikeville, in Monroe county.

By Mr. Wilcoxen—8. A bill to provide for the removal of the seat of government from the town of Frankfort to some more central site.

By Mr. Chenowith—9. A bill to establish an election precinct in Meade county.

By Mr. Dyer—10. A bill to legalize certain proceedings of the county court of Ohio, at the November term, 1825.

And by Mr. Mayes—11. A bill to prevent swindling under the pretence of appropriating vacant lands.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th and 10th bills having been dispensed with, the 1st was committed to a select committee of Messrs. Street, New, Miller and Mayes; the 2d, 5th, 6th, 7th, 9th and 10th ordered to be engrossed and read a third time; the 3d was laid on the table; the 4th was committed to a select committee of Messrs, Underwood, Cox, Coombs and Hardin; the 8th to a select committee of Messrs. Cosby, Hardin, Underwood, Walker, Green, Grundy, Turner, Wilcoxen and Hall.

And thereupon the rule of the house, constitutional provision and third reading of the 2d, 6th, 7th, 9th and 10th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Brown carry the said bills to the Senate and request their concurrence.

Mr. M'Connell, from the select committee to whom was referred a bill to amend the several acts respecting the turnpike road from the mouth of Triplett's creek to Big Sandy, reported the same with an amendment; which being twice read was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time to-morrow.

Mr. Spalding, from the select committee to whom was referred a bill to amend an act, entitled "an act further to regulate the courts in the fourteenth judicial district," approved January 3d, 1825, reported the same with an amendment; which being twice read was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read "an act further to regulate certain circuit courts."

Ordered, That Mr. Spalding carry the said bill to the Senate, and request their concurrence.

Mr. Lackey, from the select committee to whom was referred a bill to alter the time of holding certain circuit courts, reported the

same with an amendment; which being twice read was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Lackey carry the said bill to the Senate, and request their concurrence.

Mr. Thomasson, from the select committee to whom was referred a bill to organize the Kentucky Enterprizing Company, reported the same with an amendment; which being read,

Ordered, That the said bill, with the amendment, be laid on the table until the first day of June next.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor has approved and signed an enrolled bill which originated in the House of Representatives, entitled an act for the benefit of Goodman Oldham; also, a resolution entitled, a resolution for appointing a joint committee to examine and report the situation of the Lunatic Asylum and Transylvania University.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

On the motion of Mr. Timberlake,

Ordered, That leave be given to bring in a bill for the benefit of the Judge of the 10th judicial district; and that Messrs. Timberlake, Hanson and Turner be appointed to prepare and bring in the same.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, Mr. Blackburn in the chair, and after some time spent therein, the Speaker resumed the chair, and Mr. Blackburn reported, that the committee had, according to order, had under consideration a bill further to regulate the collection of debts due this Commonwealth, and a bill further to regulate the Bank of Kentucky, and had gone through the same with amendments to each, which he handed in at the clerk's table.

Those to the former bill were concurred in, and the said bill as amended, ordered to be engrossed and read a third time.

The amendments proposed by the committee to the second bill, (with the exception of that fixing the salary of the President,) were then concurred in.

The question was then put upon concurring in the remaining amendment of the committee, which proposes to fix the annual salary of the President of the Bank of Kentucky at $1,200, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Spalding and Haskin, were as follows, viz:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Bruce, Clay, Chenowith, Coleman, Cosby, Cowan, Cox, Cunningham, Daniel, Dunlap, Evans, Fletcher, Ford, Gaines, Gordon, Green, Grundy, Hardin, Hutchison, James, Logan, Mayes, M'Connell, New, Owsley, Payne, Porter, Prince, Reed, Slaughter, Stephens, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, A. White, Woodson and Yantis—50.

NAYS—Messrs. James Allen, John J. Allin, Carter, Coombs, Davis, Elliston, Gibson, Hall, Hansford, Hanson, Harvey, Haskin, Lackey, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Morris, Mullens, Nuttall, Perrin, Samuel, Sanders, Spalding, Tarlton, Thomas, True, Wade, Wilcoxen and S. White—32.

The said bill as amended, was then ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Hardin carry the said bills to the Senate and request their concurrence.

Leave was given to bring in the following bills:

On the motion of Mr. Sanders—1. A bill for the benefit of the executrix of Martin D. Hardin, deceased.

And on the motion of Mr. Nuttall—2. A bill to authorise the purchasers of tobacco to export the same without inspection.

Messrs. Sanders, Turner and Crittenden were appointed a committee to prepare and bring in the first; and Messrs. Nuttall, Yantis and Turner, the second.

Mr. Yantis from the select committee to whom was referred "a bill to amend the laws in relation to Lunatics," reported the same with an amendment, which being twice read, was concurred in.

Ordered, That the said bill as amended, be engrossed and read a third time to-morrow.

Mr. Sanders, from the committee appointed for that purpose, reported "a bill for the benefit of the executrix of M. D. Hardin;" which was received and read the first time, and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was committed to the committee for courts of justice.

A bill from the Senate entitled "an act for the formation of the county of Russell, out of the counties of Adair, Cumberland and Wayne," was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was committed to the committee of propositions and grievances.

And then the house adjourned.

SATURDAY, DECEMBER 3, 1825.

Mr. Brown presented the petition of the citizens of Louisville, praying that a law may pass to grant to the trustees of said town, an extension of their powers in levying and collecting taxes, &c. and authorising them to purchase and hold certain real estate for the purposes therein expressed.

And Mr. Skyles presented the petition of Peter H. Davis, praying a divorce from his wife Nancy, late Nancy Johnson.

Which petitions were severally received, read and referred; the first to a select committee of Messrs. Brown, Thomasson and Richard Taylor, and the second to the committe of religion.

On motion,

Ordered, That leave be given to withdraw the papers, petitions, &c. relative to the seat of justice of Spencer county.

Mr. Blackburn, from the committee of propositions and grievances, made the following report:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions and bills to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of the citizens of the counties of Knox, Clay, Rockcastle and Whitley, praying that a new county may be established out of parts of their several counties, agreeable to the boundary therein set forth, *is reasonable.*

Resolved, That the bill to establish a ferry on Green river, opposite the lands of Coleman Carter, on both sides of the river, *ought not to pass.*

Resolved, That the bill to add a part of the county of Nicholas to the county of Harrison, *ought not to pass.*

Which being twice read, was concurred in, and the bills referred to in the second and third resolutions, were accordingly rejected.

Ordered, That the said committee prepare and bring in a bill pursuant to the first resolution.

Mr. Crittenden, from the committee for courts of justice, made the following report:

Resolved, That the petition of the heirs of Arthur Fox, praying for leave to sell certain property, *be rejected.*

Which being twice read, was concurred in.

Mr. Crittenden, from the same committee, made the following report:

The committee for courts of justice have, according to order, had under consideration a bill to them referred, for the benefit of the heirs of Abraham Bowman, and beg leave to report the following resolution:

Resolved, That said bill *ought not to pass.*

Which being twice read, was concurred in. The said bill was thereupon rejected.

Mr. Crittenden, from the same committee, made the following report:

The committee of courts of justice have, according to the order of the house, had under consideration the petition of the agent of the officers and soldiers of the Virginia State line, asserting their right, and praying to be permitted to locate, upon the vacant lands of this State below or south of the Tennessee river, certain warrants granted and issued by the State of Virginia for their military services, and beg leave to report, as the result of their investigations, the following resolutions, to wit:

Be it resolved by the House of Representatives, That it is just and expedient to provide by law for a judicial examination and decision upon the validity of those claims, founded on warrants expressly issued for services performed in the State line of Virginia, and which were issued prior to the first day of May, 1792; and if adjudged valid, that they ought to be satisfied out of such land below the Tennessee river, as shall not have been before entered or settled upon.

Be it further resolved, That this State is under no obligations, and ought not to provide for the satisfaction of any military warrants issued by Virginia, either prior or subsequent to the first day of May 1792, other than those embraced by the preceding resolution.

Which being twice read, was laid on the table.

Mr. Hardin, from the committee of ways and means, made the following reports:

The committee of ways and means have had under consideration, the communication of the Governor, in relation to his reception of General Lafayette as the guest of the State, and respectfully report:

That the Governor of this State, in pursuance of a resolution of the last session, did, on the 22d of November 1824, by written communication, invite General Lafayette to visit Kentucky; that

on the 11th of May 1825, the General accepted the invitation. A committee of arrangement was appointed, and such preparations made for the reception of the illustrious and distinguished guest of the State, as comported with the high character and dignity of Kentucky. The General was received at Louisville, and entertained during his progress through the State.

The committee have inspected and examined the accounts of the public expenditures in entertaining the General while in Kentucky. The accounts, as furnished to the committee, amount to the sum of $9,429 62. The committee of arrangements appointed by the Governor, have also communicated to him, that additional accounts have also come in, amounting to $3,086. The particulars of the last sum, to wit, the $3,086, have not been furnished this committee. The committee of arrangements also inform the Governor that there is yet a floating debt unliquidated by them; the amount not yet known. The total amount ascertained, is $12,515 62. There is a further balance, but the amount unknown.

The State is entitled to the following credits:

To amount drawn from the public Treasury,	$8,086 00
To amount of ball tickets and materials sold, &c.	712 62
Total credit,	$8,798 62

The committee would remark, that in the bill of particulars, the following items are found, which, in their opinion, do not come within the resolution of last session.

Accommodations furnished Governor Carroll and suite from Lexington to Nashville,	$189 75
To the expences of Colonel A. H. Rowan,	40 00
To John Cummens, for his great coat, taken off by mistake with Gen. Lafayette's baggage,	35 00

It is the opinion of the committee, that as these three items have been paid by the committee of arrangements, those gentlemen ought to be indemnified and reimbursed by the State. The committee entertain no doubt that the money was illegally drawn from the public Treasury, and that the public money cannot be drawn from the Treasury unless appropriated by law, and that the resolution which passed last session is no law, because the same was not adopted in conformity to the constitution of this State, to make it binding and obligatory as a law. But yet it is believed, that the Governor and Treasurer did what they believed was their duty, and if any part of the transaction deserves reprehension, it is the precipitancy of the legislature in adopting the resolution.

The committee are of opinion that the Treasurer should be indemnified by law for the amount paid by him, which is $8,036; that the committee of arrangement, by the Governor, should

be permitted to draw from the Treasury, the balance, so far as they have rendered to this house a bill of particulars, which is the sum of $630 87, and that the payment of the residue, for which no bill of particulars has been furnished, should be suspended until the further order of the legislature. To carry these views and opinions into effect, the committee report a bill.

The Committee for the reception of General Lafayette to the State of Kentucky, *Dr.*

1825, May.—To cash received of Sam'l. South, Treasurer, upon the Governor's order, in Commonwealth's notes,	$5,000 00
Cash received for sale of ball tickets, in specie and eastern notes,*	132 50
Do. Do. Commonwealth's notes,	239 00
Do. received of Samuel South, Treasurer, ditto, per order of the Governor,	3,086 00
Do. received for sale of articles,	325 00
Do. Do.	16 25
	$8,798 75

CREDITOR.

By disbursements made by J. J. Crittenden, as paymaster of committee at Frankfort, for music,	$168 00
Cash paid John Taylor, Messenger,	10 00
Ditto, Col. P. Dudley,	24 00
Ditto, Col. Richard Taylor,	300 00
Ditto, Wight and Ratliff, as per account,	681 40
Ditto, John Woods, do.	6 62½
Ditto, Daniel Weisiger, do.	1,365 25
Ditto, Morrison & Co. do.	505 62½
Ditto, Ambrose W. Dudley & Co. do.	252 42
Ditto, Col. R. Taylor, as per receipt,	1,156 92
Ditto, Ditto, do.	550 00
Ditto, R. Price, do.	20 00
Ditto, Larkin Samuel, do.	18 00
Ditto, John A. Markley, do.	29 00
Ditto, J. & P. Dudley, and Jos. Taylor, do.	220 86
Ditto, W. I. Phillips & Co. do.	27 00
Ditto, F. Lloyd, do.	112 00
Ditto, Joseph Bush, do.	50 00
Ditto, R. Graham & Co. do.	14 50
Ditto Charles Miles, do.	39 59
Ditto, E. P. Johnson, do.	100 00
Ditto, Isaac Thom, in specie,* do.	132 37

* The sum of $132 50, is carried out in specie, and balanced by Isaac Thom's account in specie, also carried out in specie.

Ditto, Ditto, specie $253, equal in Commonwealth's notes, at an advance of 70 per cent. to	430 00
Ditto, J. Edmondson, $180 specie, equal, in Commonwealth's notes, at an advance of 70 per cent, to	306 00
Ditto, John S. Goins, as per receipt,	10 00
Ditto, Joseph Smith, do.	20 84
Ditto, Mrs. Sorrell, do.	6 00
Ditto, Mahorney, &c. do.	6 00
Ditto, A. Kendall & Co. do.	62 00
Ditto, Robert Brenham, do.	20 00
Ditto, Wight and Wingate, balance of account,	12 51
By disbursements made by Thomas Bodley, as paymaster of committee at Lexington, Louisville and elsewhere:	
May 10.—Expences of Bledsoe and Bodley to Frankfort, and of them and Bibb and Barry to Louisville,	26 62½
11.—Cash paid Mr. Lee, for an express to Frankfort and Lexington, as per receipt,	25 00
12.—Ditto, A. Edwards' bills for Bibb, Barry, Bledsoe and Bodley,	21 00
Ditto, Col. Todd, for his bill at Edmondson's, &c.	22 00
Ditto, Col. Sharp, for his expences to Louisville, whilst there, and back,	25 00
Ditto, paid J. Edmondson's bill in Louisville, (in part)	400 00
Cash paid for breakfast, servants, &c. at Ramsey's, in Middletown,	21 00
do. paid at Netherton's for drink &c. and servants, per receipt,	21 00
do. Russell's do.	5 50
do. at Shelbyville, for hack-drivers and horses, put up at different taverns,	3 00
do. servants &c.	1 00
do. at Overton's for breakfast, horses, servants &c.	51 00
do. Moses, by order of Col. James Johnson, for taking back horses from Frankfort to Shelbyville, expences, &c.	8 00
do. for hack hire &c. from Louisville to Frankfort, and expences for returning, as per receipt of hackmen,	236 00
do. Hiram Clive &c. for music at Frankfort, order of Col. Dudley,	81 50
do. Dehorney & Co. per do.	12 00
do. Beach for hack hire to Louisville and back,	45 00
do. Col. M'Afee, for expences &c. as per receipt,	25 00
do. Col. Leslie Combs, to procure hack and accommodations for Gov. Carroll and suite, from Lexington to Nashville, as per certificate,	189 75

do. Capt. J. M. Pike, for powder, flannel, horse-hire, attendance &c. for the firing salutes &c. at Lexington, as per receipt and account,	134 00
do. Batman, for his services and expences paid by him whilst driving Gen. Lafayette's carriage from Louisville to Lexington,	45 00
do. Jabez Beach, for carriage horses &c. as per receipt and account,	184 00
do. Joseph, for do.	326 00
do. Mrs. Keen, in part of her account,	250 00
do. J. Ficklin, Post-Master, Lexington, for General Lafayette's postage,	6 12
do. music in Lexington,	50 00
do. B. Evans, at Georgetown, per bill,	26 50
do. Thornberry, for accommodations at night, servants &c.	21 00
do. at turnpike gate, shoeing horse, &c.	7 00
do. Jones, for breakfast and servants,	17 00
do. at Robinson's,	1 50
do. Gaines, for accommodations at night, servants, &c.	56 00
do. for expences at Covington and Cincinnati,	82 50
do. Kennedy, for ferriages, &c.	10 00
do. Col. J. H. Rowan, for expences, &c.	40 00
do. Gaines, on return, for keeping horse and drink,	2 00
do. toll at turnpike gate,	4 00
do. Robinson, for dinner and servants, &c.	5 00
do. Theobald's, for accommodations one night, &c.	16 00
do. Jones,	1 00
do. toll at turnpike gate,	2 87½
do. Herndon, for dinner, servants, &c.	9 00
do. Evans' bill at Georgetown, for one night, returning,	20 75
do. John Mason, at sundry times for expences and money paid out by him,	77 00
do. John Cummins, for his great coat taken off by mistake with Gen. Lafayette's baggage,	35 00
do. Mrs. Keen, for keeping horses, &c.	6 50
do. by Mr. Bibb at Versailles and Lexington,	20 00
do. by Mr. Bibb, for part of expences of Gen. Lafayette's suite, going to Cincinnati, and at Covington,	92 50
	$9,429 62

Balance due committee, $630 87

For committee,

GEORGE M. BIBB.

The committee of ways and means have had under consideration, the resolution of this house, directing the committee to enquire into the practicability of reducing the tax assessed the present year, in conformity to the provisions of an act of the last session, to three and one eighth cents upon each $100.

The committee, in its inquiry into the matters of fact connecting themselves with this subject, is satisfied that the Legislature, at its last session, intended to increase the taxes by doubling the same, or increasing them to nearly that amount; because, at the time the law passed, paper was two for one; when the commissioners commenced taking in the lists of taxable property, the same difference; but before they had finished, the paper had so far appreciated, that the difference was at the rate of one hundred and fifty for one hundred. This change and fluctuation of the value of Commonwealth's paper, will make the burthens of taxation operate unequally; but yet it renders it difficult, if not entirely impracticable, to scale the paper in which the taxes are to be paid, or in other words to scale the tax.

The committee would further remark, that the commissioners' books for the different counties, have not all been returned to the Auditor; consequently, no calculation can be made at this time, as to the amount of taxes accrued for the year 1825, and payable in 1826. The committee submit the following resolution:

Resolved, That it is impracticable to scale the taxes assessed for the year 1825, to three and one eighth cents on each $100, or to interfere with it in any way.

The resolution recommended in the latter report, was then concurred in.

Ordered, That the public printers forthwith print 150 copies of the first report and the bill of particulars of said expenditure, furnished by the Governor.

Leave was given to bring in the following bills;

On the motion of Mr. Slaughter—1. A bill to amend an act entitled "an act to amend the law to encourage the manufacturing of salt in this Commonwealth."

On the motion of Mr. B. E. Watkins—2. A bill to add a part of Pulaski to Whitley county.

On the motion of Mr. Farmer—3. A bill for the benefit of John Cottrell and others.

On the motion of Mr. James—4. A bill to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth, and for other purposes," approved December 30, 1824.

On the motion of Mr. Underwood—5. A bill to amend the law concerning constables.

On the motion of Mr. Harvey—6. A bill to repeal the law allowing pay for slaves executed.

And on the motion of Mr. Coombs—7. A bill for the benefit of John Terry.

Messrs. Slaughter, A. White and Green, were appointed a committee to prepare and bring in the first; Messrs. B. E. Watkins, Cunningham, Cowan and Hansford, the second; Messrs. Farmer, A. White, New and B. E. Watkins, the third; Messrs. James, Gordon and Prince, the fourth; Messrs. Underwood, Yantis and Sterrett, the fifth; Messrs. Harvey, Grundy, Marshall, E. Watkins, Hanson and Morris, the sixth; and Messrs. Coombs, Hardin and Martin, the seventh.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Crittenden, from the committee for courts of justice—1. A bill regulating the granting of injunctions by justices of the peace.

2. A bill to repeal parts of an act approved January 7, 1824, entitled "an act to revive and amend the champerty and maintenance laws, and more effectually to secure the *bona fide* occupants of land within this Commonwealth."

By Mr. Nuttall—3. A bill to authorise purchasers of tobacco to export the same without inspection.

By Mr. Hanson—4. A bill to establish an election precinct in the county of Clark.

By Mr. Brown—5. A bill granting further powers to the trustees of Louisville.

By Mr. James—6. A bill to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth, and for other purposes," approved December 30, 1824.

And by Mr. Hardin, from the committee of ways and means—7. A bill to legalize the acts of the Treasurer, in accepting and paying the orders of the Governor, one for $5,000 and one for $3,086, drawn by him to entertain General Lafayette, while in this State, and for other purposes.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 2d, 4th, 5th and 6th bills having been dispensed with, the 2d and 5th were committed to the committee for courts of justice; the fourth was ordered to be engrossed and read a third time; and the 6th was committed to a select committee of Messrs. Cosby, James and Prince.

And thereupon the rule of the house, constitutional provision and third reading of the fourth bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hanson carry the said bill to the Senate, and request their concurrence.

Mr. M'Connell. from the select committee to whom was referred a bill giving further time to the trustees of the Hart Seminary, to list their lands for taxation, reported the same with an amendment; which being twice read was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same having been engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read "an act to release lands belonging to Seminaries of learning from forfeiture, and to exempt them from the payment of taxes."

Ordered, That Mr. M'Connell carry the said bill to the Senate, and request their concurrence.

Mr. Hutchison, from the select committee to whom was referred a bill to authorise the county court of Nicholas to permit gates to be put across the State road between Joseph Morgan's and Benjamin Lawrence's, reported the same with an amendment; which being twice read was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time on Monday next.

Mr. New, from the select committee to whom was referred a bill for the benefit of the Simpson Seminary, reported the same with an amendment; which being twice read was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time on Monday next.

Mr. Hanson moved the following resolution:

Resolved, That the committee of ways and means be directed to enquire into the expediency of repealing all laws allowing to the clerks of the circuit courts, out of the public treasury, compensation for *ex officio* services; and also, all laws allowing to the sheriffs, out of the public treasury, fees for the service of attachtachments against witnesses for non-attendance, in civil suits, and providing for the payment of the expence of such attachments, by the parties litigant.

Which being twice read, was adopted.

A message from the Senate, by Mr. Ewing:

Mr. Speaker—The Senate *adhere* to the amendments by them proposed, to a bill which originated in this house, entitled "an act to repeal an act entitled an act to repeal the law organizing the Court of Appeals and to re-organize a Court of Appeals, and also, an act entitled an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes."

And then he withdrew.

Ordered, That the said bill, together with the amendment proposed by the Senate, be referred to a committee of the whole house on the state of the Commonwealth, for Monday next.

The following bills were severally read a second time, viz. 1. A bill for the benefit of William Davis; and 2, a bill to amend the law concerning the valuation of property taken under execution.

The first was committed to a select committee of Messrs. E. Watkins, Farmer, Bainbridge and Porter; and the second to a select committee of Messrs. Green, Underwood, Crittenden and Blackburn.

Mr. Crittenden read and laid on the table the following resolutions:

Be it resolved by the General Assembly of the Commonwealth of Kentucky, That they regard with indignation, the aspersions against the character and conduct of their distinguished fellow-citizen, HENRY CLAY, and that their confidence, far from being diminished, has been increased by his firm and conscientious discharge of his public duty, on the occasion of the late Presidential election.

Resolved further, That although Mr. ADAMS was not their choice for the Presidency, they acquiesce cheerfully in the result of the election, and, indulging in the confident hope and expectation that his administration will be salutary and wise, that they will give to all its measures a candid and liberal consideration.

Mr. Bruce moved the following resolution, viz.

Resolved by the House of Representatives, That the committee on ways and means be instructed to enquire into the propriety of compelling the county courts in this Commonwealth, to erect sufficient jails, and in the event of it becoming necessary to employ guards for any jail, that the expences and hire of said guards shall be paid by the county in which such guard may be employed.

Which being twice read, was adopted.

Mr. Chenowith read and laid on the table the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That at the end of the present session, each member of the General Assembly be furnished by the public printers with six printed lists of the acts passed during the same.

Mr. Brown presented the remonstrance of sundry citizens of the town of Louisville, against the passage of any law to increase the tax on the real estate held in said town, (as prayed for by a portion of the citizens,) but that the taxes, if increased, may be derived from other sources.

Which was received, read and referred to the committee for courts of justice.

And then the house adjourned.

MONDAY, DECEMBER 5, 1825.

Mr. Elliston presented the petition of sundry citizens of the town of Williamstown, in Grant county, praying that a law may pass to appoint trustees for said town, and to regulate the manner in which the conveyances for lots in said town, shall be made to the purchasers.

Mr. Bruce presented the remonstrance of Joseph Robb, clerk of the Lewis circuit and county courts, in answer to the petition of sundry citizens of Lewis county, praying a suit to be instituted against him for moneys improperly received by him, and levied by order of the Lewis county court.

Mr. Coleman presented the petition of the Trustees of the Harrison Seminary, praying that a law pay pass to authorise them to draw from the Bank of Kentucky the dividends of stock declared by said bank, on the stock owned by said institution in said bank.

Mr. Breckinridge presented the memorial of C. S. Rafinesque, representing that he is the author of the *Divitial Invention*, which imparts to all values invested, the properties of *available money*, and praying for the incorporation of several companies, with a view to put his invention into practical use, and to advance the public interest.

Which petitions were severally received, read and referred; the 1st to a select committee of Messrs. Elliston, Coleman, Mullens and Gibson; the 2d and 4th to the committee for courts of justice; and the 3d to the committee of propositions and grievances.

Mr. Hardin, from the committee of ways and means, made the following report:

The Committee of Ways and Means have had under consideration the communication of Thomas B. Monroe, Reporter of the decisions of the Court of Appeals, and respectfully report thereupon:

That by the laws now in force, the State of Kentucky is to take from the Reporter 200 copies of each volume of the decisions of the Court of Appeals, and to pay for the same at the rate of one cent per page. It is ascertained that the Reporter has published one volume, containing 325 pages, of the decisions of that court, which decisions were rendered at the fall term 1824, for which he has been paid, out of the public treasury, $650, the full amount. From the written communication of the Reporter, he has had about 133 pages of decisions printed, which he says were given in the spring term 1825, and some few decisions of the fall term 1825, he has in a state of preparation; but how far the preparation has progressed, the Reporter has not informed the committee. The decisions of the spring and fall terms 1825, above alluded to, were given by Messrs. Barry, Haggin, Trimble and Davidge.

The Reporter has drawn from the public treasury $350, as he says, in advance towards the second volume, which he is preparing; but, according to the calculations of the committee, the volume printed, containing 133 pages, amounts to $266, and that, instead of having drawn in advance, he has availed himself of the modern and fashionable practice, and overdrawn the full price of the volume $84.

From the communication of the Reporter as to the court which gave the decisions that he is preparing for the second volume, the committee were necessarily led to enquire into the authority of Messrs. Barry, Haggin, Trimble and Davidge, to render and pronounce decisions, as the appellate court of Kentucky. The inquiry has enabled the committee to collect the following information: That John Boyle, William Owsley and Benjamin Mills were legally commissioned Judges of the Court of Appeals of this State; that they took the oaths of office, and for a number of years have discharged the duties assigned to them as Judges of that court; that the court has never been abolished, because the constitution forbids it; that the Judges, Boyle, Owsley and Mills, have not been removed, either by impeachment or address, nor have they resigned or abdicated their offices; but have continued, from term to term, up to the present time, to act as a court of appeals. The committee have further ascertained, that the Legislature, at its last session, attempted, in the very teeth of the constitution, to abolish the court of appeals and create another court of appeals; and under that act, the Governor, by and with the assent of the Senate, commissioned William T. Barry, James Haggin, John Trimble and Rezin Davidge, Judges of the court thus attempted to be created. The minority in the Legislature, who voted against the act, protested against its constitutionality, and appealed to the people, who of right ought and must decide all questions of government, in a republic. The denial of this great and inalienable right to the people, is an insidious attempt to erect and establish a despotism. The decision of the people was decisive against the constitutionality of the law. Notwithstanding that expression of public opinion, it is contended by some, that it is a court *de facto*, and as such, the opinions given by that court are binding upon the people, and must be considered as the opinions of the court of appeals, until the act shall be repealed which passed during the last session. The committee have carefully examined all the authorities to which they had access, touching governments and officers *de facto*. A great number of authorities can be found on both sides of the question, as to governments *de facto*, some contending for the divine right of kings and rulers, others for the great principle of self-government, which is to be displayed by the people making a new government whenever they choose, and whenever they do, it is a government both *de facto* and

de jure. Upon this last principle was our independence achieved and government established. The validity of the purchase of Louisiana rests upon the same principle. It is one that every republican must subscribe to, and in which the committee concur.

The second question which presents itself for investigation, is, how far are the acts of officers *de facto* binding upon the people? Upon this question there are a number of authorities, and somewhat contradictory, as must be expected in settling all great and originally disputed points. None of the authorities go further than this, that the acts of subordinate ministerial and judicial officers, who come in by colour of office, shall be binding upon the people. It is to be remarked, that the mere assumption of power will not make the acts binding; but the officer must come into office with all the ostensible formalities of law, but yet not in such strict conformity thereto, as to make him an officer *de jure*. It is further to be remarked, that this principle has been recognized, not because the same was legal, but from the necessity of the thing; and it has never been extended to the head of any of the departments of government, but only to small and subordinate officers; nor, in the nature of our government as organized by the constitution, can the principle apply to the head of either of the governmental departments. But to this rule, when applied to subordinate officers, is this further exception, that where there is an officer *de jure* in the actual discharge of his official duties, no usurper of his office can, even if he come in by colour of office, exercise and discharge the duties and functions of his office, as an officer *de facto*. The committee, in support of this position, refer to 16th Viner, page 114; Andrews' Reports, page 173, which last book contains these words: "And he, C. J. said, that in these cases the proper question is, whether the person be an officer *de facto* as to the particular purpose under consideration. According to 1 Salk. 96, and he cited the Queen and Davis, in Queen Anne's time, where, on an information, it was held that there cannot be an officer *de facto* and *de jure* at the same time."

When these principles of law are applied to the question whether the decisions of Messrs. Barry, Haggin, Trimble and Davidge, as a court *de facto*, are to be regarded as the decisions of the appellate court, and as such, the Reporter ought to publish them, the answer must be, that the decisions are not to be considered binding, and that the Reporter is not authorised by law to publish them:

1st. Because it is a court attempted to be organized in direct opposition to the constitution.

2d. It is not a court *de facto*, because the assumed and pretended Judges are not even clothed with the colour of office.

3d. The office assumed is not a subordinate one, but the head of the judiciary department of Kentucky.

4th. The Judges *de jure*, that is, the constitutional Judges, Boyle, Owsley and Mills, were in the actual discharge of their official duties, when the assumed and pretended Judges, Barry, Haggin, Trimble and Davidge, attempted to exercise and discharge the duties assigned by the constitution to Judges Boyle, Owsley and Mills.

The committee submit the following resolutions:

1. *Resolved*, That Thomas B. Monroe, the Reporter of this State, ought not to publish the decisions given by Messrs. Barry, Haggin, Trimble and Davidge, as the decisions of the appellate court of this State.

2. *Resolved*, That the Secretary of State ought not to purchase and receive from said Reporter any book containing the decisions of Messrs. Barry, Haggin, Trimble and Davidge.

3. *Resolved*, That the said Thomas B. Monroe has illegally drawn from the public treasury $350, the sum advanced for the volume which is to contain the decisions of Messrs. Barry, Haggin, Trimble and Davidge, and that he ought to refund the same; and in case of his failing so to do, that, by the accounting officers, he be held and considered a public debtor to the amount of $350.

4. *Resolved*, That it is the duty of the Auditor and Treasurer to audit and pay no more money out of the public treasury, to either the Reporter, Sergeant or Tipstaff of the assumed court of Barry, Haggin, Trimble and Davidge, or any expences incurred by said pretended court or any of its pretended officers.

FRANKFORT, November 30th, 1825.

Gentlemen of the House of Representatives:

In reply to your resolution calling on me for information of the sums of money I have received from the treasury for the Reports of the decisions of the Court of Appeals, the number of pages reported, and the number of cases now in preparation, and the court that gave the decisions, the following statement is submitted:

On the 18th March, having made affidavit that I was ready to commence the printing of my first volume, the Auditor of public accounts, according to the provisions of the act of January 7th, 1824, referred to in the act of January 3d, 1825, issued to me, in advance, a warrant on the treasury for $350, which I paid for the paper and in advance for the printing. I understand the money was received.

When I had finished the volume and obtained a certificate from a majority of the Judges of the Court of Appeals, of their approbation of the work, I delivered 200 copies to the Secretary of State, and obtained his certificate of the delivery, and that there was a balance of $300 in my favor; and having applied to the Auditor, he issued the warrant, which I paid over to the printers

and bookbinder, in *part* for their materials and labor, (for there is still a balance of two or three hundred dollars against me.) I believe they received the money.

The volume contains in all 332 pages; but, supposing there were about four or five pages for which the State was not properly chargeable, and being determined to avoid all question as to the correctness of my charge, I deducted *seven* pages, and charged for only 325; which, at the rate fixed by law, (Session Acts of 1822, p. 244.) made each copy amount to three dollars and twenty-five cents, and the 200 copies to $650, the total sum received for them.

In the mean time, having prepared and commenced the printing of the decisions of the last spring term, in a second volume, I made the affidavit required by law, and presented it to the Auditor. I was then entitled, according to the literal import of the statute, to a warrant for $350 in advance; but, supposing that 200 copies of a volume containing the decisions of that term only, would not amount to that sum, I asked of the Auditor a warrant for only $200. I paid this warrant also for the paper and in advance for the printing, and I understood the money was received upon it.

I had intended to conform literally to the statute, which seemed to require that the decisions of each term should be published in a separate volume; but knowing that when this provision was made, it was calculated that the opinions of every term would make a book of about 400 pages, and finding that the decisions of the spring term would not make a volume of more than about one third that size, I doubted whether the State might not prefer having all the decisions of the present year reported in one volume.

In order, therefore, to be prepared to publish the decisions of the two terms in one or two volumes, as I might be directed, or circumstances might require, I suspended the preparation of the Index, and proceeded with the preparation of the decisions of the present term; and having completed the printing of the decisions of the last term, proceeded with those of the present.

After coming to this conclusion, I applied to the Auditor for a warrant on the treasury for $150, being the balance of the $350 which I was before entitled to receive; and having received the money from the treasury, I paid $100 dollars of it in advance for the paper, &c. and the work progressed until the week before the Legislature convened. I was then compelled to suspend the printing, because the printers I had engaged, being printers for the Commonwealth, could not proceed with my work during the session. This delay I have been reconciled to, because I apprehended I could not obtain other workmen equally correct, and because I believed I would still be able to have all the decisions of the present year published and delivered to the Secretary in time

to be distributed with the Acts and Journals of the present session.

I am not now, nor have I been since the suspension of the printing, engaged in the preparation of any decisions for the press; but shall resume it in sufficient time before the printers I have employed are disengaged, and afterwards have the work completed with all possible despatch.

There were delivered, at the spring term, 52 opinions of that character which I considered it to be my duty, under the statute, to publish at length. These have been printed, and I have inserted the substance of a few other decisions. At the present term, there have been about 25 opinions delivered, some of which are printed, and some progress has been made in the preparation of the balance. These decisions were delivered by the Court of Appeals established by the act of the General Assembly passed at the last session, and approved by the Executive on the 24th of December. I have not been apprised that any other tribunal had, after the passage of that act and prior to the time when I have stated I suspended the preparation and printing of the decisions of the Court of Appeals, exercised the power of deciding any cause belonging to that jurisdiction.

If requested, I will furnish the house with a file of the printed sheets of the decisions of the present year. The first volume, containing the decisions of the preceding term, having been delivered to the State, is of course accessible to the house.

Any further information which may be desired, and which may be in my power, shall be cheerfully furnished.

THOMAS B. MONROE.

Ordered, That the said report be laid on the table, and that the public printers forthwith print 150 copies of said report, for the use of the members of this house.

Mr. Green, from the select committee to whom was referred a bill to amend the law concerning the valuation of property taken under execution, reported the same with an amendment.

Ordered, That the said bill, with the amendments, be laid on the table until the first day of June next.

Mr. Gaines moved the following resolution:

Whereas doubts are entertained by many of the good citizens of this Commonwealth, whether the Court of Appeals of this State have sustained our occupying claimant laws, and those doubts have, to a great extent, been created by the argument of some committee, or a member of some committee, at a former session of the Legislature, in a preamble and resolutions for removing the Judges of that court by address; in which argument it is asserted, that the court had *virtually* decided against those laws, and also,

from certain insinuations of his Excellency, in his message to this General Assembly: Therefore,

Be it resolved, That a select committee of five be instructed to enquire whether such decision has been given by the court, and if so, to report to this house in what case, and to what extent; and if no such decision has been given, then to enquire whether that court has recognized our occupying claimant laws as good and valid, and have enforced the same in favor of the occupant, and in what cases, to what extent, and in what books are those opinions reported; and that the said committee report fully and specially in regard to this matter.

It was then moved and seconded to amend the preamble to said resolution, by inserting before the word "court," the word "old"; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Sanders and Gaines, were as follows, viz.

YEAS—Messrs. Barbee, Carter, Chenowith, Coombs, Daniel, Elliston, Fulton, Hall, Haskin, Lackey, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Perrin, Porter, Sanders, Spalding, Tarlton, Thomas, Wade, Wilcoxen and S. White—26.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Clay, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dyer, Evans, Farmer, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Marshall, M'Connell, Morris, New, Owings, Owsley, Payne, Prince, Samuel, Skyles, Slaughter, Stephens, Street, Richard Taylor, Z. Taylor, Thomasson, True, Underwood, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, Wingate, A. White, and Yantis—54.

It was then moved and seconded to lay the said resolution on the table until the first day of June next; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Spalding and Gaines, were as follows:

YEAS—Messrs. Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Elliston, Fulton, Hall, Haskin, Lackey, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Wade, Wilcoxen, Wingate and S. White—30.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dyer, Evans, Farmer, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Marshall, M'Connell, Morris, New, Owings, Owsley, Payne, Skyles, Slaughter, Stephens, Street, Richard Taylor, Z. Taylor, Thomasson, True, Underwood, Walker, B. E. Watkins, E. Watkins, Wilson, A. White, and Yantis—50.

The question was then taken on adopting the said resolution, which was decided in the affirmative.

Whereupon, Messrs. Gaines, Hardin, Walker, Crittenden and M'Connell, were appointed a committee pursuant to said resolution.

Mr. M'Connell, from the committee to whom was referred so much of the Governor's message as relates to internal improvements, made the following report:

The committee raised on so much of the Governor's message as relates to internal improvements, have had that subject under consideration, and now submit the following report:

Your committee are fully satisfied of the importance and utility of turnpiking the two great roads mentioned in the message, and of commencing a system of internal improvements, which, if pursued, would eventuate in placing all the prominent roads in the country, in a proper state of repair.

But your committee conceive, that it would be inexpedient, *at this time*, to appropriate the funds which, by the message, are recommended to be employed. By a reference to the charter of the Bank of the Commonwealth, it will be found that the State's stock in the Bank of Kentucky, with its profits, all moneys arising from the sale of vacant lands, and for the purchase of land-warrants, were pledged by the Legislature for the redemption of the notes of that bank, and agreeably to that charter, those notes are redeemable in gold and silver only.

It is believed that many debts due to the Bank of the Commonwealth, will ultimately be lost, by the failures of the debtors to that institution. The extent of those losses, cannot now be foreseen or anticipated; and while your committee indulge the belief, that these losses will not be great in amount; yet they would deem it a breach of public faith, to divert the funds so pledged to any other purpose, until that pledge shall have been redeemed.

Your committee, therefore, find no available funds with which to commence, at this time, the great work of internal improvements, recommended in the message.

It is, however, the opinion of some of your committee, that great improvements might be effected in most or all of the public roads, by an alteration in the present road law, so as to work the roads with the proceeds of a tax upon persons and property, leaving it in the power of the persons owing road tax, to discharge the same in labor. Those members of your committee who entertain this sentiment, conceive, that in addition to the manifest defects in the system itself, as proved by the bad repair of the roads, the system is unjust, unequal and oppressive. Agreeably to the present road laws, the poor man, the mere sojourner in the country, is compelled to labor upon the public roads, to the same extent as a man of great fortune, unless he should have male slaves within the ages embraced by the present law. It is believed that every man ought to contribute to the support of government, upon two considerations: First, for the protection of his person; and second, for the protection of his property. It is, therefore, plain, that when you compel a man, who has not a sufficiency of property to meet the demands of a dependent and needy family, to contribute as much towards keeping the roads in repair, o for any other purpose of government, as he who lives in lordly affluence and is

worth thousands, you violate this sacred principle of equality. It is, therefore, the opinion of your committee, that by adopting the mode of taxation, the public roads would be kept in a much better state of repair, and the burthens of repairing them would be equalized amongst the citizens.

To that end, those of your committee who entertain those opinions, have, with the permission of the other members, herewith reported a bill, the passage of which they recommend.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Blackburn, from the committee of propositions and grievances—1. A bill to establish the county of

By Mr. Underwood—2. A bill to amend the law concerning constables.

By Mr. M'Connell—3. A bill to regulate the laws in relation to working on public roads.

By Mr. Thomasson—4. A bill further regulating the Jefferson Seminary.

By Mr. Farmer—5. A bill for the benefit of John Cottrell and others.

By Mr. Coombs—6. A bill for the benefit of John Smoot.

And by Mr. B. E. Watkins—7. A bill to add a part of Pulaski county to the county of Whitley, and for other purposes.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the 1st was committed to a select committee of Messrs. Slaughter, Farmer, A. White, B. E. Watkins and Blackburn; the 2d, 4th, 5th, 6th and 7th, ordered to be engrossed and read a third time; and the 3d was committed to a select committee of Messrs. Maupin, M'Connell, M'Clanahan, Underwood and Waddell.

Ordered, That the public printers forthwith print 150 copies of the third bill, for the use of the members of this house.

And thereupon the rule of the house, constitutional provision and third reading of the 2d, 4th, 5th, 6th and 7th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Cosby carry the said bills to the Senate and request their concurrence.

Mr. James, from the select committee to whom was referred a bill to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth, and for other purposes," approved December 30, 1824, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. James carry the said bill to the Senate and request their concurrence.

On motion,

Ordered, That the committee of the whole house be discharged from the further consideration of an engrossed bill, entitled "an act to repeal an act entitled, an act to repeal the law organizing the Court of Appeals and to re-organize a Court of Appeals, and also an act entitled, an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes."

It was then moved and seconded, that this house *adhere* to their disagreement to the amendments proposed by the Senate to said bill; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Green and Hardin, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Z. Taylor, Thomasson, True, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White and Yantis—53.

NAYS—Messrs. Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, E. Watkins, Wilcoxen, Wingate and S. White—35.

Ordered, That Mr. Hardin inform the Senate thereof.

On the motion of Mr. Grundy,

Ordered, That leave be given to bring in a bill to allow an additional justice of the peace to the county of Washington; and that Messrs. Grundy, Cosby and Bainbridge, be appointed a committee to prepare and bring in the same.

A message was received from the Senate, announcing the passage of a bill entitled "an act to change the venue in the case of Benjamin Berry."

The following bills were severally read a second time: 1, A bill for the benefit of the heirs of George Snap, deceased; 2, a bill to amend the law in relation to the trial of the right of property levied on by execution; 3, a bill to alter the mode of disposing of the vacant lands of this Commonwealth; 4, a bill to amend the penal laws of this Commonwealth; 5, a bill for the benefit of Robert Davis; 6, a bill to prohibit the appropriation of a part of the vacant land of this Commonwealth; and 7, a bill making provision for the keepers of lunatics, in certain cases.

The 2d was committed to a select committee of Messrs. Cosby, Walker, Hardin, Underwood and Haskin; the 3d, 5th and 6th were severally ordered to be engrossed and read a third time to-morrow; the 4th was committed to a select committee of Messrs. Cosby, Green, Dyer, Underwood, Hardin and M'Connell; the 7th to a select committee of Messrs. Wilcoxen, Lackey, Fletcher and Grundy.

And the question being taken on engrossing the first bill and reading it a third time, it was decided in the negative, and so the said bill was rejected.

The following bills from the Senate were severally read the first time, viz. 1, An act to amend an act entitled "an act for the benefit of Daniel Trabue and others," approved January 7, 1824; 2, an act for the benefit of Jesse Alcorn; 3, an act to remove the location of the seat of justice of M'Cracken county; 4, an act for the benefit of Sampson Trammell; 5, an act to provide for the distribution and preservation of the public law books; 6, an act for the appropriation of the surplus fund of militia fines in the hands of the 70th regiment Kentucky militia; 7, an act to repeal the fourth section of an act to amend the act regulating endorsements on executions, approved December 21, 1821; 8, an act to authorize lotteries for the purpose of raising money to erect bridges across Licking river, at Claysville in Harrison county, and at the mouth of Licking; 9, an act for the benefit of Cassandra Abrell, widow of Jacob Abrell, and the heirs of James Francis Moore, deceased; and 10, an act to provide for binding out poor free children of colour.

The 1st, 2d, 3d, 5th, 6th, 7th, 9th and 10th bills were severally ordered to be read a second time.

And the question being taken on reading the 4th and 8th bills a second time, it was decided in the negative, and so the said bills were rejected.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 6th and 9th bills having been dispensed with, the 1st, 2d, 3d and 6th bills (the 2d and 6th having been amended at the clerk's table,) were ordered to be read a third time; and the 9th was committed to a select committee of Messrs. Thomasson, Duke, Walker and Sanders.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 2d, 3d and 6th bills, having been dispensed with,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Thomasson inform the Senate thereof, and request their concurrence in the amendments proposed to the second and fourth bills.

A resolution from the Senate, requesting information of the Auditor as to the amount of money due this Commonwealth for the sale of vacant and unappropriated lands, was twice read, amended and concurred in.

Ordered, That Mr. Payne inform the Senate thereof, and request their concurrence in said amendment.

And then the house adjourned.

TUESDAY, DECEMBER 6, 1825.

Mr. Thomasson presented the petition of sundry citizens of the town of Louisville, praying that a law may pass to authorize the trustees thereof to levy and collect greater taxes than they are now authorized to do by law, and also to authorize them to purchase and hold certain real estate for the use of said town.

Mr. Hanson presented the petition of the administrators of Jeremiah Rogers, deceased, praying that a law may pass to authorize the sale of a tract of land belonging to the estate of the decedent, for the purpose of discharging certain debts owing by the said decedent.

Mr. Fulton presented the petition of sundry citizens of Nicholas county, praying that a law may pass to add a part of Bourbon to said county of Nicholas.

Mr. Green presented the petition of the committee of William Pearl, a lunatic, praying that a law may pass to authorize the sale of a part of the real estate of the said William Pearl, to discharge and pay his debts.

Mr. James presented the petition of Crawford Anderson, treasurer of the town of Mayfield, praying that a law may pass to release him from the payment of certain sums of money received by him for the sale of lots in said town, and which were consumed, together with his house, by fire.

And Mr. Thomasson presented the petition of the heirs of Allen Gunnell, deceased, praying the passage of a law to authorize the Register of the land-office to receive and register a copy of a plat and certificate of survey for five hundred acres, and to issue to them a patent for the same.

Which petitions were severally received, read and referred; the first, second and fourth to the committee for courts of justice; the third and fifth to the committee of propositions and grievances; and the sixth to a select committee of Messrs. Thomasson, Walker, Duke and Sanders.

Mr. Blackburn, from the committee of propositions and grievances, made the following report, viz.

The committee on propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of a part of the citizens of Scott, Owen and Grant counties, praying for the establishment of a road from Frankfort to Cincinnati, *be rejected.*

Resolved, That the petition of the trustees of Harrison Academy, praying for leave to use the interest of the money belonging to said Academy, which is in the State Bank, for the purpose of purchasing a terrestrial globe and other apparatus for the use of said Academy, *is reasonable.*

Which being twice read, was concurred in.

Ordered, That the said committee prepare and bring in a bill pursuant to the second resolution.

Mr. Blackburn, from the committee of propositions and grievances, to whom was referred a bill from the Senate, entitled "an act for the formation of the county of Russell out of the counties of Adair, Cumberland and Wayne, reported the same without amendment.

Ordered, That the said bill be read a third time to-morrow.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee for courts of justice have, according to order, had under consideration various petitions and bills to them referred, and have come to the following resolutions, to wit:

1. *Resolved*, That the petition of Joseph Layton, praying that a law may be passed to release him as the security of Sealy Crabtree, administratrix of Jesse Crabtree, deceased, in her administration bond, *be rejected.*

2. *Resolved*, That the petition of Eleanor Best, praying that a law may pass confirming an illegal sale made by her of certain property belonging to the estate of her deceased husband, *be rejected.*

3. *Resolved*, That the petition of sundry citizens of Lewis county, praying for the passage of a law authorizing suit to be brought against Joseph Robb, clerk of the county and circuit court of said county, for the recovery of certain moneys paid him in virtue of allowances made him by said county court, at their courts of claims for many years, *be rejected.*

4. *Resolved*, That the petition of Joseph Robb, praying that a law may be passed prohibiting the county courts hereafter from making allowances to their clerks for fuel and stationary, or directing said courts to make such allowances in all cases, *be rejected.*

5. *Resolved*, That a bill for the benefit of the heirs of Benjamin South, deceased, *ought not to pass.*

6. *Resolved*, That a bill for the benefit of the executrix of M. D. Hardin, deceased, *ought not to pass.*

The committee for courts of justice report, that they have had under consideration the memorial of the citizens of Meade county, complaining of the conduct of the Executive, in failing to com-

mission, as was alleged, Hiram C. Boon, a justice of the peace for said county, upon a proper recommendation from the court of said county. The committee have ascertained, by an examination of the office of the Secretary of State, that said commission was issued in October last, and they were informed that it had been enclosed in a letter and deposited in the post-office, according to the usages of the office. Wherefore, they submit the following resolutions:

7. *Resolved*, That the Governor is not properly chargeable with any neglect of the interests of the good people of Meade county, as insinuated in their petition.

8. *Resolved*, That the committee be discharged from the further consideration of said petition of the citizens of Meade county.

The committee for courts of justice have had under consideration the petition of Constantine Samuel Rafinesque, inventor of the *divitial invention*, praying for the incorporation of five companies, the stock in all which to be held on the *divitial plan*, to wit: 1st, A company to be called the Ohio Navigation Company, with a capital not exceeding $200,000; 2d, two companies to build bridges across the Ohio river at Louisville and Cincinnati, with power to sell divitial stock, and to be aided by a divitial lottery in raising $50,000, to accomplish the objects in view; 3d, a divitial institution, with a capital of $1,000,000, and to loan to the State to the extent of half its capital, when required, at an interest of four per cent. per annum, only; 4th, a Kentucky Mining Company, with a capital of $500,000, held on the divitial principle, for the purpose of working iron mines, coal mines, salt pits, marble quarries, &c.; and 5th, a divitial lottery of $100,000, for the benefit of the State. Your committee would state, that projects of such magnitude as proposed, require a degree of investigation and consideration which cannot well be bestowed at this late period of the session, and, therefore, they recommend the adoption of the following resolution:

9. *Resolved*, That the committee for courts of justice be discharged from the further consideration of the petition of the said Rafinesque.

Which being twice read, was concurred in.

Whereupon the bills referred to in the 5th and 6th resolutions, were declared to be rejected.

Mr. Underwood, from the same committee, to whom was referred a bill to repeal parts of an act approved January 7, 1824, entitled "an act to revive and amend the champerty and maintenance laws, and more effectually to secure the *bona fide* occupants of land within this Commonwealth, reported the same with an amendment; which being twice read, was concurred in. A further amendment having been offered,

Ordered, That the said bill and amendments be laid on the table; and that the public printers forthwith print 150 copies of said bill, for the use of the members of the General Assembly.

Mr. Mayes, from the committee of religion, made the following report:

The committee of religion, to whom was referred the petition of Peter H. Davis, praying a divorce from his wife, Nancy Davis, have, according to order, had the same under consideration, and have come to the following resolution, to wit:

Resolved, That the said petition *be rejected.*

Which being twice read, was concurred in.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration the communication of the Secretary of State, in relation to his purchase of books for this Commonwealth, as directed by an act of the last session, and report thereupon:

That in obedience to the law of last session, the Secretary of State purchased from different persons, such books as the government was in need of, consisting of some of the Reports of the decisions of the Court of Appeals, and the Digest of our Statutes. This necessity of purchasing the books, was occasioned by the burning of the capitol, and the books of the State which were in it.

The full amount of the books purchased, is $2,102 50. The committee, upon examination, find that the books were purchased at the usual and customary selling prices, and that the Secretary, in the purchase of the books, has acted with fidelity and correctness. It is true, that William Wood offered fourteen sets of the six volumes of Littell's Reports, at $4 per volume, which is less than the books were purchased for. Had the Secretary accepted of this offer, he would have been obliged to have taken eight copies of the first volume of Littell's Reports, and eleven copies of the third volume ditto, more than the State wanted. It further appeared to the committee, that the Secretary had made his purchases before Mr. Wood offered his books for sale. The committee report the following resolution:

Resolved, That the committee of ways and means be discharged from the further consideration of the communication of the Secretary of State, in relation to his purchase of books for this Commonwealth.

Which being twice read, was concurred in.

Mr. Wilcoxen, from the select committee to whom was referred a bill making provision for the keepers of lunatics in certain cases, reported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time to-morrow.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Underwood, from the committee for courts of justice—1. A bill to alter and amend the laws in relation to executors and administrators.

By Mr. Hardin—2. A bill to prevent the sale of lottery tickets not authorised by law.

By Mr. Gaines—3. A bill concerning the turnpike road from Georgetown to Cincinnati.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first and third bills having been dispensed with, the first was laid on the table, and the third was ordered to be engrossed and read a third time.

Ordered, That the public printers forthwith print 150 copies of the first bill, for the use of the members of the General Assembly.

And thereupon the rule of the house, constitutional provision and third reading of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Gaines carry the said bill to the Senate and request their concurrence.

A message from the Senate by Mr. Allen:

Mr. Speaker—The Senate concur in the amendment proposed by this house to a bill from the Senate, entitled "an act for the appropriation of the surplus fund of the militia fines in the hands of the paymaster of the 70th regiment Kentucky militia;" and in the amendment to the resolution from the Senate, requiring information of the Receiver of public moneys west of the Tennessee river. They concur in resolutions from this house of the following titles: A resolution fixing a day for the election of public officers; a resolution for the adjournment of the General Assembly, with amendments to each. And they have passed bills entitled "an act to extend the terms of certain circuit courts in this Commonwealth," and "an act to provide for holding a chancery term in the county of Nicholas,;" in which amendments and bills they request the concurrence of this house.

And then he withdrew.

Mr. Cosby, from the select committee to whom was referred a bill to provide for the removal of the seat of government from the town of Frankfort to some more central site, reported the same with an amendment, which was read as follows:

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of September next, the seat of government of the State of Kentucky shall

be removed from the town of Frankfort, to in the county of there remain for years.

Sec. 2. *Be it further enacted*, That be, and they are appointed commissioners for the purpose of selecting an eligible and central site for the permanent seat of government of the State of Kentucky.

Sec. 3. That the said commissioners shall meet at in the county of on or before the day of next, or as soon thereafter as practicable, and after taking the following oath, (or affirmation, as the case may be,) "that we will, to the best of our skill and abilities, without partiality, favor or affection, discharge the duties assigned us by an act of the General Assembly of Kentucky, passed at the November session, one thousand eight hundred and twenty-five, entitled an act to provide for the removal of the seat of government from the town of Frankfort to some more central site;" which oath or affirmation shall be administered by some justice of the peace, in and for the county aforesaid, and a certificate of said oath shall, by said justice, be lodged with the clerk of the circuit court of said county, who shall file the same.

Sec. 4. That it shall be the duty of said commissioners to ascertain, as near as the means within their power will enable them, the *territorial* centre of the State of Kentucky, as well in relation to territory as population: *Provided, however*, That nothing in this section contained, shall be construed to authorize the commissioners to have an actual survey of the State made, in order to ascertain the centre.

Sec. 5. That when said commissioners shall have thus ascertained the centre of the State, they shall proceed to select the most eligible site within twenty miles of said centre, for the permanent location of the seat of government of the State of Kentucky.

Sec. 6. That said commissioners shall, if the site selected shall be out of a town, procure for the Commonwealth, by purchase or donation, not more than four hundred acres, nor less than one hundred acres of land: *Provided, however*, said commissioners shall not give more than dollars per acre; which land shall include the site selected, a sufficient portion of which, they shall cause to be laid off into suitable lots, streets and alleys, and shall cause a fair plat thereof to be made, which they shall lay before the next General Assembly.

Sec. 7. The said commissioners shall take from the seller or donors of said land, a deed or deeds of conveyance to the Commonwealth, for said land, and shall give to the seller a certificate signed by a majority of said commissioners, of the amount agreed to be given for said land, and upon the production of said certifi-

cate, to the Auditor of public accounts, he shall issue his warrant upon the treasury for the same.

Sec. 8. But if said site shall be selected in a town, the commissioners shall procure for the Commonwealth, in said town, acres of ground, for which they shall take a deed or deeds, and give certificates as aforesaid, which shall be paid for as directed in the above section: *Provided, however*, said commissioners shall not give more than dollars per acre, for the land by this section directed to be purchased. Said commissioners shall make report of their proceedings under this act, to the next General Assembly.

Sec. 9. Said commissioners shall receive for their services, dollars per day, each, which shall be paid out of the public treasury, upon their producing to the Auditor of public accounts, the certificate of the acting Governor, that the services required by this act have been performed, as also, the number of days each commissioner shall have been employed in the same.

Sec. 10. *Be it further enacted*, That be, and they are hereby appointed commissioners, who shall be styled Commissioners of public buildings, and said commissioners shall, as soon as the site for the permanent location of the seat of government of the State of Kentucky shall be selected by the commissioners appointed by a previous section of this act, and deeds executed to the State, proceed to have erected at said site, the necessary public buildings, to wit, a capitol, necessary offices, a government house and necessary out houses, which shall be convenient and suitable to the dignity of this Commonwealth; but the sum to be given for the public buildings aforesaid, shall not exceed the sum of dollars, and said commissioners shall, before they enter upon the duties assigned them by this act, enter into bond with approved security, in the circuit court of the county in which the site shall be situate, in the penalty of dollars, conditioned for the faithful discharge of the duties assigned them by this act, and for the faithful disbursement of all money or property which shall come to their hands for the purposes aforesaid, which bond shall be preserved by the clerk of said court in his office, and may be sued upon in the name of the Commonwealth of Kentucky, for any breach of the same, and as often as any breach shall happen; and it shall be the duty of the Attorney General to prosecute a suit or suits on said bond, in the general court or any of the circuit courts of this Commonwealth. Jurisdiction is given to the courts aforesaid by this act, and any and all sums recovered on said bond, shall be for the use of the Commonwealth, and shall be paid into the public treasury.

Sec. 11. *Be it further enacted*, That said commissioners shall have power and authority to draw from the public treasury, by

virtue of the Auditor's warrants, which he is authorized to issue on application of the commissioners in writing, any sum of money not exceeding in the whole dollars: *Provided, however*, the same shall not be drawn faster than necessary for the purchase of materials and the payment of workmen.

Sec. 12. *Be it further enacted*, That said commissioners shall keep a true and perfect account of all money or property used in the buildings aforesaid, and take proper vouchers of all expenditures, and shall settle the same with the Auditor of public accounts, at least once a year; and said commissioners shall receive for their services, dollars, each, which shall be paid by the Auditor's warrant upon the treasury, when the work is completed.

It was then moved and seconded to lay the said bill and amendment on the table until the 15th instant; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Logan and Cosby, were as follows, viz:

YEAS—Mr. Speaker, Messrs. Blackburn, Bruce, Carter, Coleman, Cowan, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Ford, Fulton, Gaines, Gibson, Hanson, Hutchison, Lackey, Lee, Logan, Marshall, M'Cormas, M'Connell, Mullens, Owings, Perrin, Reed, Samuel, Sanders, Stephens, Street, Tarlton, Richard Taylor, Waddell, Wingate and A. White—38.

NAYS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Breck, Breckinridge, Brown, Chenowith, Coombs, Cosby, Cox, Cunningham, Dyer, Farmer, Gordon, Green, Grundy, Hall, Hansford, Hardin, Harvey, Haskin, James, Martin, Maupin, Mayes, M'Clanahan, Miller, M'Millan, Morris, Napier, New, Owsley, Payne, Porter, Prince, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Thomasson, True, Underwood, Wade, Walker, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, S. White, Woodson and Yantis—54.

It was then moved and seconded to amend said amendment by striking out all but the first section thereof; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Wilcoxen and Maupin, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Brown, Carter, Chenowith, Cosby, Cowan, Cox, Crittenden, Cunningham, Daniel, Dunlap, Dyer, Elliston, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Harvey, Hutchison, James, Lackey, Lee, Logan, Marshall, Maupin, Mayes, M'Cormas, M'Connell, Miller, M'Millan, Mullens, Napier, New, Owsley, Payne, Perrin, Reed, Sanders, Slaughter, Stephens, Sterrett, Street, Tarlton, Richard Taylor, Z. Taylor, Thomas, Thomasson, True, Underwood, Wade, Walker, B. E. Watkins, Wilcoxen, Wilson, Wingate, A. White, S. White, Woodson and Yantis—72.

NAYS—Messrs. John J. Allin, Bruce, Coleman, Coombs, Davis, Fulton, Hardin, Haskin, Martin, M'Clanahan, Morris, Owings, Porter, Prince, Samuel, Skyles, Spalding, Waddell and E. Watkins—19.

It was then moved and seconded to fill the first two blanks in said amendment with *Louisville*, county of *Jefferson*; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Thomasson and Brown, were as follows, viz:

YEAS—Messrs. Barbee, Brown, Chenowith, Cox, Dyer, Ford, Gordon, Hardin, James, Logan, Martin, M'Millan, Morris, Porter, Reed, Samuel, Spalding, Sterrett, Richard Taylor, Thomas, Thomasson, E. Watkins and Wilcoxen—23.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Coleman, Coombs, Cosby, Cowan, Crittenden, Cunningham, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Farmer, Gaines, Gibson, Green, Grundy, Hall, Hansford, Hanson, Harvey, Hutchison, Lackey, Lee, Marshall, Maupin, Mayes, M'Clanahan, Miller, Mullens, Napier, Owings, Owsley, Payne, Perrin, Prince, Sanders, Skyles, Slaughter, Stephens, Street, Tarlton, Z. Taylor, True, Underwood, Waddell, Wade, Walker, B. E. Watkins, Wilson, Wingate, S. White, Woodson and Yantis—62.

It was then moved and seconded to fill the said blanks with *Lexington*, county of *Fayette;* and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Cosby and Wade, were as follows, viz:

YEAS— Messrs. Bainbridge, Barbee, Breck, Breckinridge, Brown, Chenowith, Cosby, Cowan, Cox, Cunningham, Dyer, Evans, Farmer, Green, Grundy, Hall, Hansford, Hanson, James, Martin, Maupin, M'Cormas, M'Connell, Miller, Napier, Owsley, Payne, Skyles, Slaughter, Sterrett, Z. Taylor, Thomas, True, Underwood, Wade, B. E. Watkins, Wilcoxen, S. White, Woodson and Yantis—40.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Blackburn, Bruce, Carter, Coombs, Crittenden, Daniel, Duke, Dunlap, Elliston, Fletcher, Ford, Fulton, Gaines, Gibson, Gordon, Hardin, Harvey, Haskin, Hutchison, Lackey, Lee, Logan, Marshall, Mayes, M'Clanahan, Mullens, Owings, Perrin, Porter, Prince, Reed, Samuel, Sanders, Spalding, Stephens, Street, Tarlton, Richard Taylor, Thomasson, Waddell, Walker, E. Watkins, Wilson, Wingate and A. White—48.

It was then moved and seconded to fill the said blanks with *Perryville*, county of *Mercer;* and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. M'Connell and Wade, were as follows, viz:

YEAS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Brown, Chenowith, Coombs, Cosby, Cowan, Cox, Dyer, Farmer, Gordon, Grundy, Hall, Hardin, Harvey, Haskin, James, Martin, Maupin, Mayes, M'Clanahan, Miller, M'Millan, Napier, Owsley, Porter, Prince, Skyles, Spalding, Sterrett, Street, Z. Taylor, Thomas, Underwood, Wade, Walker, B. E. Watkins, Wilcoxen, Wilson, S. White, Woodson and Yantis—44

NAYS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Bruce, Carter, Coleman, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Gibson, Green, Hansford, Hanson, Hutchison, Lackey, Lee, Logan, Marshall, M'Cormas, M'Connell, Mullens, Owings, Payne, Perrin, Reed, Samuel, Sanders, Slaughter, Stephens, Tarlton, Richard Taylor, Thomasson, True, Waddell, E. Watkins, Wingate and A. White—46.

It was then moved and seconded to fill the said blanks with *Lebanon*, county of *Washington*; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Hardin and Napier, were as follows, viz:

YEAS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Brown, Chenowith, Coombs, Cosby, Cox, Dyer, Gordon, Grundy, Hall, Hardin, Harvey, James, Martin, Maupin, Mayes, Miller, M'Millan, Napier, Owsley, Porter, Prince, Skyles, Spalding, Sterrett, Street, Z. Taylor, Thomas, Underwood, Wade, Walker, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, S. White, Woodson and Yantis—41.

NAYS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Bruce, Carter, Coleman, Cowan, Crittenden, Cunningham, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gaines, Gibson, Green, Hansford, Hanson, Haskin, Hutchison, Lackey, Lee, Logan, Marshall, M'Clanahan, M'Cormas, M'Connell, Mullens, Owings, Payne, Perrin, Reed, Samuel, Sanders, Slaughter, Stephens, Richard Taylor, Thomasson, True, Waddell, Wingate and A. White—49.

It was then moved and seconded to fill the said blanks with *Danville, Mercer county;* and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Hardin and Wade, were as follows:

YEAS—Mr. Speaker, Messrs. John J. Allin, Bainbridge, Barbee, Breck, Chenowith, Coombs, Cosby, Cowan, Cox, Cunningham, Dyer, Farmer, Gordon, Green, Grundy, Hall, Hansford, Harvey, Haskin, James, Maupin, Mayes, Miller, M'Millan, Napier, Owsley, Porter, Prince, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Underwood, Wade, Walker, B. E. Watkins, Wilcoxen, Wilson, A. White, S. White, Woodson and Yantis—45.

NAYS—Messrs. James Allen, Blackburn, Breckinridge, Bruce, Carter, Coleman, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Gibson, Hanson, Hardin, Hutchison, Lackey, Lee, Logan, Marshall, Martin, M'Clanahan, M'Cormas, M'Connell, Mullens, Owings, Payne, Perrin, Reed, Samuel, Sanders, Stephens, Street, Tarlton, Richard Taylor, Thomasson, True, Waddell, E. Watkins and Wingate—45.

It was then moved and seconded to fill the said blanks with *Harrodsburg, Mercer county*; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Hardin and Wade, were as follows, viz.

YEAS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Chenowith, Coombs, Cosby, Cox, Cunningham, Farmer, Green, Grundy, Hall, Harvey, Haskin, Maupin, Mayes, Miller, M'Millan, Napier, Owsley, Prince, Skyles, Slaughter, Spalding, Stephens, Sterrett, Z. Taylor, Thomas, Underwood, Wade, Walker, E. Watkins, Wilcoxen, S. White, Woodson and Yantis—37.

NAYS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Bruce, Carter, Coleman, Cowan, Crittenden, Daniel, Davis, Duke, Dunlap, Dyer, Elliston, Evans Fletcher, Ford, Fulton, Gaines, Gibson, Gordon, Hansford, Hanson, Hardin, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, M'Clanahan, M'Cormas, M'Connell, Mullens, Owings, Payne, Perrin, Porter, Reed, Samuel, Sanders, Street, Tarlton, Richard Taylor, Thomasson, True, Wilson, Wingate and A. White—51.

The said bill was then committed to a select committee of Messrs. Hardin, Brown, Underwood, Cosby, Wade, Green, Haskin, Walker and Cunningham.

A message was received from the Senate, announcing their concurrence in a resolution from this house for appointing joint committees to examine the several offices, the Penitentiary and the Bank of Kentucky; the passage of bills which originated in this house of the following titles: An act authorising the sale of certain ground in the town of Russellville; an act to compel free persons of colour to work on roads and highways; an act to change the place of voting in the eastern precinct in Hardin county; an act to extend the limits of the town of Mountsterling; an act further to regulate the town of Nicholasville; an act to alter the time of the annual meeting of the General Assembly; an act to remove the seat of justice of Oldham county; an act to authorise the trustees of the Lewis Academy to sell the lands belonging to that institution; an act for the benefit of Jacob Renner; an act to alter the time of holding the Washington county courts; an act to amend the act entitled "an act to provide for the running and marking the county line between the counties of Owen and Grant; an act to establish an election precinct in Montgomery county; an act to compel the owners of warehouses and inspections to keep therein scales and weights, or patent balances; an act to allow additional justices of the peace to sundry counties; an act to alter the mode of electing trustees to the Fleming Academy; an act for the benefit of Richard Apperson—with amendments to the five latter bills; and the passage of bills of the following titles: An act to establish an inspection of tobacco in the town of Louisville; an act for the benefit of Joseph R. Given, late sheriff of Caldwell county; and an act for the benefit of Robert Bleaky, deputy sheriff of Meade county.

And then the house adjourned.

WEDNESDAY, DECEMBER 7, 1825.

1. Mr. Sterrett presented the petition of sundry citizens of the counties of Breckinridge, Ohio and Daveiss, praying for the erection of a new county out of a part of each of said counties.

2. Mr. Fletcher presented the petition of sundry citizens of the counties of Bath, Bourbon, Nicholas and Montgomery, praying for the formation of a new county out of a part of each of said counties.

3. And also a petition counter thereto.

4. Mr. Brown presented the annual report and also the petition of the President and Managers of the Louisville Hospital, praying an appropriation of money for the said Hospital.

5. Mr. Napier presented the petition of the administrators and heirs of Joseph Smith, deceased, (the infant heirs by their guardian,) praying that a law may pass authorising the sale of a tract

of land, which descended to them, for the purpose of paying the debts of said decedent.

6. Mr. Tarlton presented the petition of the widow, adult heirs and infant heirs (by their guardian) of Benjamin Quin, sen. deceased, praying that a law may pass authorising the sale a of tract of land, which descended to them from the said Quin.

Which petitions were severally received, read and referred; the 1st, 2d, 3d and 4th to the committee of propositions and grievances; the 5th to the committee for courts of justice; and the 6th to a select committee of Messrs. Tarlton, Ward, Gaines, Walker, Chenowith and Miller.

Mr. Hardin, from the select committee to whom was referred a bill to provide for the removal of the seat of government from the town of Frankfort to some more central site, reported the same with an amendment in lieu of the original bill, after the enacting clause; which was twice read, as follows, to wit:

That from the State of Tennessee, from the State of Ohio, and from the State of Indiana, be and they are hereby appointed commissioners; the three or any two of them, after taking an oath before some justice of the peace, well and truly to discharge the duties assigned them by this act, are hereby authorised and respectfully requested to fix on a proper site for the seat of government for this Commonwealth, and in making the selection of the place, they are to have a due regard to the centre of the State, and also the centre of present and probable future population; and to enable them to choose an eligible site, they are hereby permitted to make the selection at any point which, in their opinion, is most eligible, within forty miles of the centre of the State, and of present and probable future population.

§ 2. *Be it further enacted*, That when the commissioners appointed under this act shall have performed the duties assigned to them by section the first of this act, they shall return the same to the Governor of this State, together with a certificate of their having taken the oath herein required; which return of the commissioners and the oath of office shall be carefully kept and also recorded in the office of the Secretary of State.

§ 3. *Be it further enacted*, That be and they are hereby appointed commissioners, who shall be styled the commissioners of public buildings, and to whom the Governor shall furnish a copy of the return of the commissioners locating the seat of government, and being so furnished, the said commissioners or any two of them, shall, if the site is in a town, purchase acres in or adjoining said town, to erect the public buildings on, and if not in a town, then two hundred acres for the use of this commonwealth, to erect the public buildings on; which lot or parcel of ground, when purchased, and the contract recorded in the office of the clerk of the county court where the land may be situ-

ated, shall that instant be vested in this Commonwealth to all intents and purposes, in as full and ample a manner as if no title had ever passed out of this Commonwealth, or the State of Virginia.

§ 4. *Be it further enacted*, That the building commissioners appointed under this act, shall, as soon as practicable after the purchase of the ground as above directed, cause to be built, a Capitol, in every way suitable to the wealth, population and dignity of this Commonwealth, conforming to a convenient and proper plan; and also, all other buildings necessary for the residence of the Governor, and the accommodation of the public offices.

§ 5. *Be it further enacted*, When the public buildings are completed, as directed in the fourth section of this act, that the said building commissioners shall certify the Governor of the same, which certificate shall contain what said commissioners have done, and a plan of the building erected by them, which certificate shall be recorded in the office of the Secretary of State.

§ 6. *Be it further enacted*, The instant the Governor shall receive said certificate, the seat of government shall be removed from Frankfort to the place fixed on by the commissioners appointed under the first section of this act, and to the public buildings prepared by the building commissioners, and the Governor and all the public officers shall forthwith remove to said place and take possession of said buildings, and the Legislature of this State shall, at the next session thereafter, assemble there for legislative business, and all courts which are now directed to be holden at the seat of government, shall be held there.

§ 7. *Be it further enacted*, That the building commissioners shall, before they enter on the duties assigned them by this act, take an oath, well and truly to discharge the same; they shall give bond and security to the Commonwealth, well and truly to apply to the purposes contemplated by this act, all sum or sums of money by them received, and faithfully account for the same; which bond shall be taken by the Secretary of State, and kept by him, and the said bond shall be renewed whenever the Governor shall require it.

§ 8. *Be it further enacted*, That the commissioners appointed under the first section of this act, shall have and receive dollars per day, each, from the time they enter upon the duties herein assigned them, until the same are completed, and that the commissioners of public buildings be allowed dollars per day, each, for each day they are employed under the provisions of this act.

§ 9. *Be it further enacted*, That if any of the commissioners appointed under this act shall refuse to serve, or shall agree to serve and afterwards resign or die, the Governor of this State

shall, and he is hereby directed to fill the place or supply the vacancy.

§ 10. *Be it further enacted*, That to carry this act into effect, the sum of $50,000 is hereby appropriated, to be drawn from the public Treasury, from time to time, as the Governor may deem the same necessary.

And the question being taken on concurring in the said amendment, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Sanders and Hardin, were as follows, to wit:

YEAS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Clay, Chenowith, Coombs, Cosby, Cowan, Cox, Cunningham, Dyer, Farmer, Gordon, Grundy, Hall, Hansford, Hardin, Haskin, James, Martin, Maupin, Mayes, Miller, M'Millan, Morris, Napier, New, Owsley, Porter, Prince, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Thomasson, Underwood, Wade, Walker, B E. Watkins, E. Watkins., Wilcoxen, Wilson and S. White—46.

NAYS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Carter, Crittenden, Daniel, Davis, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Gibson, Green, Hanson, Hutchison, Lackey, Lee, Logan, Marshall, M'Clanahan, M'Cormas, M'Connell, Mullens, Nuttall, Owings, Payne, Perrin, Reed, Samuel, Sanders, Stephens, Street, Tarlton, Richard Taylor, Timberlake, True, Turner, Wingate, A. White, Woodson and Yantis—48.

The said bill was then laid on the table until the first day of June next.

Mr. Thomasson, from the select committee to whom was referred a bill from the Senate, entitled "an act for the benefit of Cassander Abrell, widow of Jacob Abrell, sen. deceased, and the heirs of James Francis Moore, deceased, reported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill as amended, be read a third time, to morrow.

Mr. Blackburn, from the select committee to whom was referred a bill making an allowance to Col. William Steele, reported the same with an amendment; which being twice read, the said bill and amendment was referred to the committee of ways and means.

Mr. Slaughter, from the committee to whom was referred a bill to establish the county of reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed, and the blanks therein filled, the question was then put on the passage of the said bill, which was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Hardin, and Farmer, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Bainbridge, Breck, Bruce, Bruton, Chenowith, Coombs, Cunningham, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Gaines,

Gibson, Green, Hall, Hanson, Haskin, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, Mayes, M'Connell, M'Millan, Nuttall, Perrin, Porter, Prince, Reed, Sanders, Slaughter, Stephens, Sterrett, Street, Tarlton, Richard Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, True, Turner, Underwood, Waddell, Wade, Walker, Wilson, Wingate, S. White, Woodson and Yantis—58.

NAYS—Messrs. Barbee, Blackburn, Carter, Cosby, Cowan, Cox, Davis, Dunlap, Gordon, Grundy, Hansford, Hardin, M'Clanahan, New, Owsley, Samuel, Spalding, E. Watkins and A. White—19.

Resolved, That the title of the said bill be "an act to establish the county of Laurel."

Ordered, That Mr. Farmer carry the said bill to the Senate, and request their concurrence.

The amendments proposed by the Senate, to a resolution from this house, fixing a day for the adjournment of the General Assembly, and a resolution fixing a day for the election of public officers, were taken up, severally twice read and concurred in.

Ordered, That Mr. Woodson inform the Senate thereof.

Mr. Woodson read and laid on the table the following resolutions, viz.

Whereas that portion of the citizens of this State, who are unfortunately engaged in litigation in the Federal courts, experience great inconvenience and additional expence in travelling to and attending with their witnesses on said courts, now held at a single position, and whose terms, from the mass of business pending therein, are extended to an indefinite period, and the prospect of a trial on the day appointed, being in practice found entirely delusive, whereby costs are greatly accumulated, and suitors, to their excessive annoyance, necessarily detained from their families and domestic pursuits: Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky, That the interest and convenience of the citizens of this State, imperiously demand a redress of those grievances, which, in the opinion of this General Assembly, can be effected by the division of this State into at least judicial districts, and requiring the present Judges of said court, to hold at least sessions thereof, annually, in the towns of in said districts respectively, or the appointment of an additional judge, whose jurisdiction shall embrace the southern section of this State, and the middle and northern sections thereof, be assigned, as may be deemed most expedient, to the present Judges or their successors in office.

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to induce the Congress of the United States to effectuate the desired object in one of the modes herein suggested, or as to them may seem most expedient.

An engrossed bill entitled "an act to continue in force the law providing for the appointment of Commonwealth's attorneys," was taken up,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hanson carry the said bill to the Senate and request their concurrence.

On the motion of Mr. Hanson, leave was given to bring in a bill to repeal the first section of an act entitled "an act to regulate the salaries of the Judges of the court of Appeals, and for other purposes," approved January the 6th, 1825; and Messrs. Hanson, Green and Logan, were appointed a committee to prepare and bring in the same.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Blackburn—1. A bill authorising the trustees of the county Academies to draw their stock from the Bank of Kentucky.

And 2—A bill to open a new road from the mouth of Raven creek to Williamstown.

By Mr. Green—3. A bill for the benefit of Jesse Dennis.

By Mr. Timberlake—4. A bill for the benefit of the Judge of the tenth judicial district.

By Mr. Slaughter—5. A bill to amend the several acts for encouraging the manufacture of salt in this Commonwealth.

By Mr. James—6. A bill to amend the law concerning the town of Columbus, at the Iron Banks.

And by Mr. Cosby—7. A bill to allow one additional justice of the peace to the county of Washington.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of the second and third bills having been dispensed with, the second bill was ordered to be engrossed and read a third time on to-morrow, and the third bill was committed to the committee of propositions and grievances.

And thereupon the rule of the house, constitutional provision and second and third readings of the first, fifth, sixth and seventh bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Blackburn carry the said bills to the Senate and request their concurrence.

A message from the Senate, by Mr. Cockerill:

Mr. Speaker—The Senate have passed a bill entitled "an act to add a part of Barren county to the county of Allen;" in which bill they request the concurrence of this house.

And then he withdrew.

A message from the Senate, by Mr. Mayo:

Mr. Speaker—The Senate have passed an act to appoint commissioners to examine and receive the improvements made on the Louisa fork of Sandy river; and they have passed a bill which originated in this house, entitled "an act to regulate the appropriation of fines and forfeitures in certain counties in this Commonwealth," with amendments; in which bill and amendments, they request the concurrence of this house.

And then he withdrew.

Mr. Underwood, from the select committee to whom was referred a bill to alter the time of holding the Hart circuit and county courts and to legalize the proceedings of the county courts of said county, and also to alter the time of holding the circuit and county courts of Edmondson county and to provide for running the lines of said county, reported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Coombs carry the said bill to the Senate, and request their concurrence.

Mr. Dyer, from the select committee to whom was referred a bill to amend the penal laws of this Commonwealth, reported the same with an amendment; which being twice read, the said bill and amendment were re-committed to a select committee of Messrs. Hardin, Underwood and Cosby.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing,

And then he withdrew.

The said message was then taken up, and read as follows, viz.

Gentlemen of the Senate,

and of the House of Representatives:

There is in the office of the Secretary of State, a receipt from W. Wood, of the town of Frankfort, a copy of which is herewith transmitted, for fifty sets of the Digest of the Statutes, at $6 50 each. It does not appear, that any payment has yet been made to the State, on account of them. Mr. Wood states, as I am informed, that Mr. Cuthbert S. Anderson, who was assistant Secretary at the time the books were received, and who delivered them, was indebted to him on a private account; that the price to be paid for them was assumed by him, and that Mr. Wood was exonerated. Mr. Anderson is since deceased, and without undertaking to determine where the liability rests, I will only re-

mark, that it is obvious that the State has sustained a loss equal to the value of the books, and that Mr. Wood, or the estate of Mr. Anderson, should be made accountable.

The act of 1820, which authorizes the Secretary of State to sell and exchange certain books, "by and with the advice and consent of the Governor," contemplated, in my opinion, that the Governor should take care that no loss should accrue to the State in such transactions. Under this impression, I have conceived it to be my duty, to lay this information before you, leaving it to your discretion to adopt such measures in relation thereto, as you may deem expedient.

JOSEPH DESHA.

December 6, 1825.

Copy of Mr. Wood's receipt.

Received of the Secretary of State, fifty copies of the Digest of the Laws of Kentucky, for which I am to allow the State $6 50 per set.

W. WOOD.

July 28, 1823.

Ordered, That the said message and accompanying document, be referred to the committee of ways and means.

Mr. Hanson, from the select committee appointed for that purpose, reported a bill to repeal the first section of an act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes," approved 6th January, 1825; which was received, read the first time, and the question being taken on reading the said bill a second time, it was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Hanson and M'Clanahan, were as follows, to wit:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Clay, Cosby, Cowan, Cox, Cunningham, Davis, Dunlap, Dyer, Evans, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Z. Taylor, Timberlake, Thomasson, True, Turner, Underwood, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, Wingate, A. White, Woodson and Yantis—57.

NAYS—Messrs. John J. Allin, Barbee, Chenowith, Coombs, Elliston, Fulton, Hall, Haskin, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Wilcoxen and S. White—29.

Mr. Harvey, from the select committee appointed for that purpose, reported a bill to repeal the law allowing to the owners of slaves subjected to capital punishment, the value thereof out of the publtc Treasury; which was received and read the first time, and the question being taken on reading the said bill a second time, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Under-Wood and Harvey, were as follows, viz.

YEAS—Mr. Speaker, Messrs. John J. Allin, Barbee, Blackburn, Brown, Bruce, Bruton, Carter, Chenowith, Coombs, Cox, Crittenden, Cunningham, Daniel, Davis, Dunlap, Dyer, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gaines, Gibson, Hall, Hansford, Hanson, Harvey, Lackey, Lee, Logan, Marshall, Martin, Maupin, M'Clanahan, M'Cormas, M'Connell, Miller, M'Millan, Mullens, Nuttall, Owings, Owsley, Perrin, Porter, Reed, Slaughter, Stephens, Sterrett, Street, Timberlake, Thomas, True, Underwood, Walker, B. E. Watkins, Wilcoxen, Wilson, Wingate, S. White and Yantis—62.

NAYS— Messrs. James Allen, Bainbridge, Breck, Breckinridge, Clay, Cosby, Cowan, Gordon, Green, Grundy, Hardin, Haskin, Hutchison, James, Mayes, Napier, Payne, Prince, Samuel, Sanders, Skyles, Spalding, Tarlton, Richard Taylor, Z. Taylor, Thomasson, Turner, Waddell, Wade, A. White and Woodson—31.

A message was received from the Senate, announcing the passage of a bill entitled "an act to authorize the clerks of the M'Cracken county and circuit courts, to transcribe certain records;" and the adoption of a resolution fixing on a day for the election of Trustees for the Transylvania University.

Ordered, That Messrs. Walker, M'Connell, Bruce, Tarlton, Nuttall, Mullens, Daniel and Owsley, be appointed a committee on the part of this house, to examine and report the condition of the Penitentiary; and that Messrs. Woodson, Gaines, Green, Logan, Wilson, Gordon, Timberlake and Davis, be appointed a committee on the part of this house, to examine and report the condition of the Bank of Kentucky.

And then the house adjourned.

THURSDAY, DECEMBER 8, 1825.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles, and had found the same truly enrolled, to wit: An act to remove the location of the seat of justice for M'Cracken county; an act for the appropriation of the surplus fund of the mililia fines in the hands of the paymaster of the 70th regiment Kentucky militia; an act for the benefit of Jesse Alcorn; an act to amend an act entitled "an act for the benefit of Daniel Trrbue and others," approved January 7th, 1824; an act authorising the sale of certain ground in the town of Russellville; an act further to regulate the town of Nicholasville; an act to alter the time of the annual meeting of the General Assembly; an act to change the place of voting in the eastern precinct in Hardin county; an act to extend the limits of the town of Mountsterling; an act to amend the act entitled "an act to provide for the running and marking the county line between the counties of Owen and Grant;" an act for the benefit of Jacob Renner; an act to compel free persons of colour to work on roads and highways; an act to alter the

time of holding the Washington county court; an act to authorise the trustees of the Lewis Academy to sell the lands belonging to that institution; an act to remove the seat of justice of Oldham county; a resolution for appointing joint committees to examine the several offices, the Penitentiary and the Bank of Kentucky; and a resolution fixing a day for the election of public officers.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Davis presented the petition of Spencer Reed, praying that a law may pass relieving him from the operation of the statute of limitations in regard to writs of error, that he may be now permitted to prosecute a writ of error to reverse a decree of the Montgomery circuit court, in a suit brought by him against William Calk.

Mr. M'Clanahan presented the remonstrance of sundry citizens of Nicholas county, against the formation of a new county out of parts of the counties of Bath, Bourbon, Nicholas and Montgomery.

Which petition and remonstrance were severally received, read and referred to the committee of propositions and grievances.

An engrossed bill entitled "an act further regulating the sale of vacant lands west of the Tennessee river," was taken up.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. New carry the said bill to the Senate, and request their concurrence.

Mr. Morris, from the committee of claims, made the following report:

The committee of claims have, according to order, had under consideration the title of a bill presented on a motion for leave to bring in a bill for the benefit of James M'Millan, and have come to a resolution thereupon, to wit:

Resolved, That leave ought not to be given to bring in said bill.

The committee of claims have also had under consideration, the petition of John Wells, praying an allowance for pursuing and apprehending Philemon Plummer, a supposed felon, and have come to the following resolution, to wit:

Resolved, That the said petition *be rejected.*

Which being twice read, was concurred in.

Mr. Breckinridge moved the following resolution, to wit:

Resolved, That so much of the late annual message of the Governor, as relates to the Bank of the United States, be referred to the committee on courts of justice.

Which being twice read was adopted.

Ordered, That Mr. Breckinridge be added to the committee for courts of justice.

Mr. Blackburn, from the committee of propositions and grievances, reported a bill for the benefit of Jesse Dennis, with an amendment; which being twice read, was concurred in.

Ordered, That the said bill be engrossed and read a third time to-morrow.

Mr. Blackburn, from the same committee, made the following report:

The committee of propositions and grievances have, according to order, had under their consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of the citizens of Bourbon county, praying that a small part of the county of Bourbon be added to the county of Nicholas, *be rejected*.

Resolved, That the petition of Crawford Anderson, treasurer of the town of Mayfield, stating that his house was consumed by fire, and among other things, that $127 belonging to the Commonwealth, which had been collected by him, was burnt, and praying that a law may pass releasing him from the payment of that sum, *be rejected*.

Resolved, That the petition of the citizens of Ohio, Breckinridge and Daveiss, praying that a new county may be established out of parts of the above named counties, *be rejected*.

Which being twice read, was concurred in.

A message from the Senate, by Mr. Crutcher:

Mr. Speaker—The Senate have passed a bill entitled "an act for the benefit of the heirs of Achilles Sneed, deceased;" in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Underwood, from the committee for courts of justice, reported bills of the following titles, viz.

1. A bill for the benefit of Peter Carr.

2. A bill to authorize Samuel Shannon to sell a slave owned by his ward, Mary Shannon.

3. And a bill to amend the law establishing the town of Covington, at the mouth of Licking.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the third bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Stephens carry the said bill to the Senate and request their concurrence.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Haskin—1. A bill to amend the several acts relating to the towns of Harrodsburg and Richmond.

And on the motion of Mr. Maupin—2. A bill to amend the execution laws.

Messrs. Haskin, Turner and Allin, (of Mercer.) were appointed a committee to prepare and bring in the first; and Messrs. Maupin, Slaughter and Marshall, the second.

Mr. Chenowith moved for leave to bring in a bill allowing pay to those directors of the different branches of the Commonwealth's Bank, who have not had any loans to them granted; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was rejected.

The yeas and nays being required thereon, by Messrs. Chenowith and Cox, were as follows, to wit:

YEA—Mr. Chenowith—1.

NAYS—Mr. Speaker, Messrs. James Allen, John J. Allin, Barbee, Blackburn, Breck, Breckinridge, Bruce, Bruton, Carter, Coombs, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Harvey, Haskin, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, Mayes, M'Connell, Miller, M'Millan, Morris, Mullens, New, Nuttall, Owsley, Payne, Perrin, Porter, Prince, Samuel, Sanders, Skyles, Slaughter, Sterrett, Street, Tarlton, Richard Taylor, Z. Taylor, Timberlake, Thomas, Turner, Underwood, Waddell, Wade, Walker, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, Wingate, S. White, Woodson and Yantis—76.

Mr. Maupin, from the committee appointed for that purpose, reported a bill to amend the execution laws; which was received and read the first time, and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of the said bill having been dispensed with, the said bill was committed to the committee for courts of justice.

The amendments proposed by the Senate, to bills from this house of the following titles, to wit, an act to compel the owners of warehouses and inspections to keep therein scales and weights made of cast iron or patent balances, an act to allow additional justices of the peace and constables to sundry counties, an act for the benefit of Richard Epperson, and an act to regulate the appropriation of fines and forfeitures, were severally twice read and concurred in.

Ordered, That Mr. Thomasson inform the Senate thereof.

The amendments proposed by the Senate, to a bill from this house, entitled "an act to establish election precincts in certain counties," were taken up, twice read and committed to a select committee of Messrs. M'Connell, Duke and Bruce.

The amendment proposed by the Senate, to a bill from this house, entitled "an act to alter the mode of appointing trustees to the Fleming Academy," was twice read and concurred in, with an amendment.

Ordered, That Mr. Lee inform the Senate thereof, and request their concurrence in the said amendment.

A bill rom the Senate, entitled "an act for the formation of the county of Russell, out of the counties of Adair, Cumberland and Wayne," was read the third time.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Walker inform the Senate thereof.

An engrossed bill entitled "an act making provision to the keepers of lunatics in certain cases," was read the third time.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Thomasson carry the said bill to the Senate and request their concurrence.

A bill from the Senate, entitled "an act for the benefit of Elizabeth Powell," was read the first time; and the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

Ordered, That Mr. Thomasson inform the Senate thereof.

A bill from the Senate, entitled "an act to establish the town of Athens," was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the said bill having been dispensed with,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Breckinridge inform the Senate thereof.

The resolutions read and laid on the table by Mr. Woodson on yesterday, in relation to the United States' court in this State, were taken up, twice read, the blanks therein filled, and adopted.

Ordered, That Mr. Woodson carry the said resolutions to the Senate, and request their concurrence.

And then the house adjourned.

FRIDAY, DECEMBER 9, 1825.

Mr. Lackey presented the petition of sundry citizens of Floyd, praying that a law may pass to appropriate the fines and forfeitures now in the hands of the Trustees of the Floyd Seminary, and those which may hereafter accrue, to lessening the county levy of said county, and to alter the mode of electing Trustees for said Seminary. Also, petitions counter thereto.

Which were severally received, read and referred to the committee of propositions and grievances.

Mr. Underwood, from the select committee to whom was referred a bill to amend the execution laws, reported the same without amendment.

Ordered, That the said bill be re-committed to a select committee of Messrs. M'Connell, Underwood, Turner and Maupin.

Mr. Hardin, from the committee of ways and means, made the following reports:

The committee of ways and means have had under consideration the communication of the Governor, enclosing a receipt of William Wood for fifty copies of the Digest of the Laws of Kentucky, and report thereupon:

That the Secretary of State, by his deputy, Cuthbert S. Anderson, sold to William Wood, fifty copies of the Digest of the Laws of Kentucky for $6 50 per copy, amounting to $325; a receipt was given by Wood for the books with a covenant to pay the State $6 50 per copy. It appeared in evidence to the committee, and also by the acknowledgment of Wood, that he had paid Anderson for the books, but when he made the payments, it was distinctly understood between Wood and Anderson, that the payments were made to Anderson individually, and not in his official capacity, because, before Wood purchased the books, Anderson owed him $100, which sum was deducted out of the price of the books, or in other words, was considered a payment to that amount. Anderson, in his individual capacity, gave an order on Wood for the balance, which he (Wood) paid.

The committee are also satisfied, that the Secretary of State had, by law, an authority to sell the books, and that he directed his deputy, Mr. Anderson, to make the sale. The majority of the committee are further of opinion, that the payment made by Wood to Anderson is a discharge of Wood, and equal to a payment made to the State, and that was the intent and meaning of the receipt Wood gave for the books. The committee are of opinion, that the estate of Anderson is responsible for the $325. The committee report the following resolutions:

Resolved, That William Wood has paid for the fifty copies of the Digest of the Laws of Kentucky.

Resolved, That the estate of Cuthbert S. Anderson, deceased, is responsible to this Commonwealth for the sum of $325, the sum paid said Anderson by William Wood, for fifty copies of the Digest of the Laws of Kentucky.

The committee of ways and means have had under consideration a resolution requiring the committee to enquire whether a regular statement and account of the receipts and expenditures of public money have been published annually, respectfully report:

That the committee, in its inquiry into the subject proposed by the resolution, have ascertained, that the Auditor of public accounts has made to each branch of the General Assembly, an annual report which contained a statement of the receipts and expenditures of the government for each year, which report was

incorporated into the Journals of each house, and published annually. The committee are of opinion, that mode of proceeding substantially complied with the constitution. The committee submit the following resolution:

Resolved, That a statement and account of the receipts and expenditures of all public money have been published annually.

Which being severally twice read, were concurred in.

Leave was given to bring in the following bills:

On the motion of Mr. Slaughter—1. A bill to regulate the duties of the keeper of the gate on the turnpike and wilderness road.

On the motion of Mr. Hardin—2. A bill for the benefit of John Caldwell.

On the motion of Mr. Wade—3. A bill to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of an act approved December 24th, 1824, as provides for the appointment of a fourth Judge.

On the motion of Mr. Green—4. A bill for the benefit of Achilles Perrin.

On the motion of Mr. Thomasson—5. A bill regulating the mode of summoning and empannelling petit jurors.

And on the motion of Mr. Skyles—6. A bill to branch the Court of Appeals.

The yeas and nays being required on granting leave to bring in the sixth bill, by Messrs. Skyles and Maupin, were as follows:

YEAS—Messrs. John J. Allin, Bainbridge, Brown, Clay, Chenowith, Coleman, Cosby, Cox, Cunningham, Davis, Duke, Dyer, Elliston, Fletcher, Fulton, Gaines, Grundy, Hanson, Hardin, Haskin, Lackey, Lee, Martin, Maupin, Mayes, M'Clanahan, M'Cormas, M'Millan, Morris, Mullens, Napier, New, Nuttall, Porter, Prince, Skyles, Spalding, Stephens, Street, Thomas, Thomasson, Underwood, Wade, Walker, E. Watkins, Wilcoxen, Wilson, S. White and Woodson—49.

NAYS—Mr. Speaker, Messrs. Barbee, Blackburn, Breck, Breckinridge, Bruce, Bruton, Coombs, Cowan, Crittenden, Daniel, Dunlap, Evans, Ford, Gibson, Gordon, Green, Hall, Hansford, Hutchison, James, Logan, Marshall, M'Connell, Miller, Owings, Owsley, Payne, Perrin, Reed, Samuel, Sanders, Tarlton, Richard Taylor, Z. Taylor, Timberlake, Turner, Waddell, B. E. Watkins, Wingate, A. White and Yantis—42.

Messrs. Slaughter, Farmer and Breck, were appointed a committee to prepare and bring in the first; Messrs. Hardin, J. Allen and Grundy, the second; Messrs. Wade, Haskin, Coleman, Lee and Mullens, the third; the committee for courts of justice, the fourth and fifth; and Messrs. Skyles, Underwood, Cosby, Coleman, Haskin, Slaughter, Woodson and Hardin, the sixth.

Mr. Crittenden moved for leave to bring in a bill to rebuild the State-House in the town of Frankfort; and the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Breck and Maupin, were as follows:

YEAS—Mr. Speaker, Messrs. Blackburn, Breckinridge, Brown, Bruce, Carter, Coleman, Crittenden, Cunningham, Dunlap, Elliston, Fletcher, Ford, Ful-

ton, Gaines, Gibson, Hutchison, Lackey, Lee, Logan, Marshall, Mayes, M'Clanahan, M'Cormas, M'Connell, Nuttall, Owings, Payne, Perrin, Reed, Samuel, Sanders, Stephens, Street, Tarlton, Richard Taylor, Timberlake, Turner, Waddell, Wade, Wingate, A. White, Woodson and Yantis—44.

NAYS—Messrs. James Allen, John J. Allin, Bainbridge, Barbee, Breck, Bruton, Clay, Chenowith, Coombs, Cosby, Cowan, Cox, Davis, Duke, Dyer, Evans, Farmer, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Haskin, James, Martin, Maupin, Miller, M'Millan, Morris, Mullens, Napier, New, Owsley, Porter, Prince, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Thomasson, Underwood, Walker, B. E. Watkins, Wilcoxen, Wilson and S. White—49.

Mr. M'Connell, from the joint committee appointed to examine the Register's office, made the following report:

The joint committee of the Senate and House of Representatives, appointed to examine and report the state of the land-office, have performed the duty required, and report as follows: That they find transcribed from the Virginia land-office, 273 bundles of surveys, neatly labelled, with an alphabet; also, 15 bundles containing the caveated and defective surveys on which grants have issued; 4 bundles caveated surveys, 2 bundles defective surveys, and 1 bundle of surveys misplaced from their proper bundle—all neatly labelled, and recorded in 11 volumes, well bound, with a complete alphabet. Two bundles of warrants located and mislaid, 1 bundle copies of wills; 16 volumes, the record of grants issued on the aforesaid surveys, in good order, with a complete alphabet; the record of military warrants from the Virginia land-office, in 2 volumes, with alphabets and in good order; a list of Virginia treasury warrants in 2 volumes; the record of pre-emption warrants in 1 volume, containing the record of warrants under the proclamation of 1763, with alphabets and in good order; commissioners' certificates granted in 1779 and '80, in 3 volumes, with alphabets in good order. The sale books of non-residents' lands for the years 1800–1–2 and 4, have a new alphabet—the books are somewhat worn. The books in which the sales of 1805–6–7–8–9–10–11–12–13–14–15–16–17–18–19 and 20 are recorded, they find in good order, with alphabets. Two volumes in which surveys have been registered since 1792, in good order. The said surveys are tied up in 144 bundles, neatly labelled, with an alphabet. The record of these surveys, together with the record of some grants, is in 10 volumes, with an alphabet in good order. The grants issued on the aforesaid surveys are in 20 volumes, to which there is an alphabet in good order. The surveys upon head right claims are neatly registered in 3 volumes, with 2 alphabets, one of which is somewhat worn. The head-right plats and certificates of survey are filed in 307 bundles, neatly labelled, and recorded in 17 volumes, with 2 alphabets in good order; the grants issued thereon, recorded in 27 volumes, well bound, with two alphabets in good order. The land warrants issued under the act of 1800, the surveys and grants on the same, as also the Tellico surveys and grants, are in two volumes; they

are registered in 1 volume, the original surveys tied up in 12 budles, and neatly labelled—all in good order. Nine bundles certificates on which warrants have issued; 7 bundles certificates of sale of non-residents' lands, on which deeds have issued; 1 bunble Attorney-General's opinions to the Register; 3 bundles county court certificates; 8 bundles caveats since 1792; 4 bundles caveated surveys since 1792; 2 bundles of surveys not registered for want of fees, since 1792; 1 bundle of defective surveys since 1792; 31 bundles of vouchers, on which the late Kentucky land warrants have issued, all labelled and in good order; 1 volume containing the surveys under the proclamation of 1763, with an alphabet; 2 volumes of certificates granted in 1796, and 3 volumes in 1798, with alphabets; Anderson and Croghan's military entry books, in 2 volumes, with alphabets; the transcript of Lincoln entries, in 2 volumes, with an alphabet in good order; May's entries, (so called,) transcribed in 5 volumes, with 2 alphabets in good order; 1 volume of Green's deputy register of surveys made previous to June 1792; 1 volume relinquishments, in tolerable order; a list of Kentucky warrants issued under the act of 1814, and the subsequent acts, in 2 volumes, and the record of said warrants in 8 volumes; the original surveys made on said warrants are tied up in 199 bundles, neatly labelled, and recorded in 12 volumes, well bound; the grants issued thereon, recorded in 18 volumes, well bound, with an alphabet in good order. Said surveys are neatly registered in 3 volumes, with an alphabet in good order. Three volumes in which caveats are recorded, with alphabets; 11 books of original entries from the county of Fayette, neatly transcribed in 4 volumes, well bound, with an alphabet in good order, agreeably to an act of assembly approved 5th January 1824. 1 book of original entries from the county of Mercer, 1 from Bourbon and 1 from Nelson, have been returned by the surveyors of said counties to the Register's office, agreeably to the requisitions of an act approved February 12, 1820—all of which books of entries are in order fit to be used. The surveyor of Jefferson county has failed to return the original entries of that county to the land-office, as your committee have been informed by the Register. One volume of military grants for lands west of the Tennessee river; 1 volume in which the surveys of that land are registered, and 1 volume in which they are recorded. The surveys are neatly tied up in 2 bundles. One volume in which certificates of sale of the lands west of the Tennessee river are recorded; one volume of grants issued thereon; one volume of Henderson's field notes, (this book is not well bound;) one volume in which surveys of land south of Walker's line are recorded; 1 volume of grants; 1 volume in which the same are registered—all in good order. The surveys of these lands are tied up in 2 bundles, neatly labelled.

One volume of the list of warrants for lands south of Walker's line, and 1 volume in which those warrants are recorded.

Your committe find, as their observation will enable them to speak, that the books and papers of this office are in good order, except such as have been injured by continued use, and they believe it due to the Register, to say that the office is well kept. Your committee are satisfied, from actual examination, that the business of the office, in some of its branches, has very greatly increased. Since the reduction of the price of land warrants to five dollars per hundred acres, the demands for them have greatly multiplied. The lands south of Walker's line having been brought into market, is a source of new employment to the Register; and the sale of lands west of the Tennessee river has greatly added to the business of that office. From this increase of business, and from the consequent necessity of multiplying the number of clerks in that office, or of an increased application on the part of the Register and the clerks now employed, your committee are unanimously of opinion that the salary of that officer ought not to be reduced.

Your committee are assured, that the Register is put to much trouble, from being compelled to attend, or to send a deputy, under the command of writs of subpœna, to give evidence, issued by the order of the several circuit courts of this Commonwealth. It is believed that no prejudice would result to suitors, from the passage of a law requiring them to take the deposition of the Register, in those cases in which his testimony may be thought important.

All which is respectfully submitted.

From the Senate,

MARTIN BEATY,
JAMES WARD,
H. B. MAYO.

From the House of Representatives,

J. M. M'CONNELL, *J. W. BAINBRIDGE,*
WILLIAM SPALDING, *JAMES TARLETON,*
E. F. NUTTALL, *J. H. SLAUGHTER,*
STEPHEN MULLINS, *JOHN PORTER.*

Which being read, was laid on the table.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Elliston—1. A bill establishing the town of Williamstown, in Grant county.

And by Mr. Nuttall—2. A bill to allow an additional constable to Henry county.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Elliston carry the said bills to the Senate, and request their concurrence.

A message from the Senate, by Mr. Garrard:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act to establish the county of Laurel," and have passed a bill entitled, "an act for the benefit of Elijah Coombs, of Perry county;" in which bill they request the concurrence of this house.

And then he withdrew.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor has approved and signed an enrolled resolution which originated in the House of Representatives, of the following title, viz. A resolution fixing on a day for the election of public officers.

And then he withdrew.

The House then proceeded to the election of public officers, and after receiving and exchanging nominations with the Senate for a Treasurer, for the ensuing twelve months, (upon which were Messrs. James Davidson, George B. Knight, Joseph Smith, William P. Roper, Samuel South and William T. Smith,) and taking five several votes, and a comparison of each vote by a joint committee from both houses, and dropping successively the candidates having the smallest number of votes on each joint vote, a majority of the votes of both houses appearing in favor of Mr. James Davidson, he was thereupon declared duly elected.

The house then, in like manner, after receiving and exchanging nominations with the Senate for a Public Printer, for the ensuing twelve months, (upon which were Messrs. Jacob H. Holeman and Robert Johnston,) proceeded to take a vote, and after a comparison of the joint vote by a committee from each house, a majority of the votes of both houses appearing in favor of Mr. Jacob H. Holeman, he was thereupon declared duly elected.

The house then proceeded, in like manner, to the election of a President of the Bank of the Commonwealth for the ensuing year, (Messrs. John J. Marshall, David White and Daniel Weisiger, being on nomination,) and after taking two several votes, and having the same compared by a joint committee from each house, Mr. Weisiger being dropped after the first vote, a majority appearing in favor of Mr. John J. Marshall, he was thereupon declared duly elected.

The house then proceeded to the election of twelve Directors to the Bank of the Commonwealth for the ensuing year; and after

receiving and exchanging nominations with the Senate, taking a vote thereon and comparing the joint vote of both houses, the committee on the part of this house reported that the joint vote stood thus: For Mr. George B. Knight, 129; for Mr. William O. Butler, 123; for Mr. Willis Field, 122; for Mr. William Gerard, 115; for Mr. Robert Johnston, 114; for Mr. Jacob Swigert, 102; for Mr. Thomas Triplett, 98; for Mr. Price Nuttall, 71; for Mr. Benjamin Hensley, 69; for Mr. Lyddall Wilkinson, 68; for Mr. John Wright, 67; for Mr. Dixon Dedman, 65; for Mr. G. E. Russell, 64; for Mr. B. B. Johnson, 63; for Mr. William Smith, 62; for Mr. Joseph Roberts, 62; for Mr. Francis P. Blair, 62; for Mr. James Downing, 61; for Mr. John M. Foster, 18; for Mr. James G. Dana, 12; for Mr. Addison Parker, 1.

Whereupon Messrs. George B. Knight, William O. Butler, Willis Field, William Gerard, Robert Johnston, Jacob Swigert, Thomas Triplett, Price Nuttall, Benjamin Hensley, Lyddall Wilkinson, John Wright and Dixon Dedman, having received the highest number, and each a majority of all the votes given, were declared duly elected Directors for the ensuing year.

And then the house adjourned.

SATURDAY, DECEMBER 10, 1825.

Mr. Napier presented the petition of Eleanor Joslen, administratrix of Benjamin Joslen, praying that a law may pass to authorize a sale of a portion of the real estate of her deceased husband, for the purpose of discharging the debts due from his estate.

And Mr. Thomasson presented the petition of Henry M. Shreve, guardian for Harriet and Rebecca Shreve, infants, and Schlallen and Bryan, praying the repeal of an act approved January 1st, 1824, establishing the ferry of William L. Todd, at Portland, across the Ohio river.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; and the second to a select committee of Messrs. Thomasson, Brown and Richard Taylor.

A bill to provide for running the line between the counties of Shelby and Spencer, was committed to a select committee of Messrs. Ford, Hardin, Logan and James Allen.

Leave was given to bring in the following bills:

On the motion of Mr. Cosby—1. A bill for the benefit of William B. Harrison.

On the motion of Mr. Watkins (of Whitley)—2. A bill for the benefit of William Steel, of Whitley county.

On the motion of Mr. Wilcoxen—3. A bill for the benefit of Joseph Irvin and others.

On the motion of Mr. Walker—4. A bill supplemental to an act establishing the county of Russell.

And on the motion of Mr. Hall—5. A bill to regulate proceedings in actions of tort.

Messrs. Cosby, Bainbridge and Grundy, were appointed a committee to prepare and bring in the first; Messrs. Watkins, (of Whitley,) Yantis and Turner, the second; Messrs. Wilcoxen, Cosby and J. Allen, the third; Messrs. Walker, Owsley and Hansford, the fourth; Messrs. Hall, Nuttall and Green, the fifth.

Mr. Hanson moved the following resolution:

Resolved, That the committee of ways and means be directed to ascertain and report the amount paid out of the public Treasury, by virtue of the provisions of the acts entitled "an act to repeal the law organizing the Court of Appeals and to reorganize a Court of Appeals," and "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes;" and that said committee also report whether any legislation is necessary or expedient in relation to such expenditures.

Which being twice read, was adopted.

Mr. Hall read and laid on the table the following resolution:

Whereas it is represented, that a large portion of the paper now in the Commonwealth's Bank, is so defaced as to be unfit, in any event, for circulation: Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of four from the Senate and eight from the House of Representatives, be appointed to ascertain the amount of paper so defaced in said Bank, and that the committee thereupon proceed to consume by burning, the paper in said Bank so ascertained to be defaced, and report the result to each branch of the Legislature.

A message was received from the Senate, announcing the passage of bills of the following titles: An act for the benefit of James Rouse and others; an act for the appropriation of the surplus funds of the militia fines in the hands of the paymaster of the 59th regiment Kentucky militia; an act to legalize the proceedings of William Hickman and Orson Morrow, of Simpson county; an act for the benefit of Thomas Hinds and others; an act for the benefit of Massey Anderson; and the passage of bills which originated in this house, of the following titles: An act making an allowance to Thomas S. Page; an act for the benefit of Isaac C. Chenowith and others; an act to authorize the county court of Grayson to appoint trustees to Millerstown; and an act further to regulate the Bank of the Commonwealth; with amendments to the latter bill.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Thomasson—1. A bill to repeal so much of the act entitled "an act to amend the law concerning ferries," as authori-

zes the establishment of a ferry across the Ohio river, from the land of William L. Todd.

By Mr. Walker—2. A bill supplemental to the act for the formation of Russell county.

By Mr. Haskin—3. A bill to amend the several laws regulating the towns of Harrodsburg and Richmond.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the first was committed to a select committee of Messrs. Hardin, Thomasson, Brown and Logan; and the second and third were ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the second bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Walker carry the said bill to the Senate, and request their concurrence.

A message was received from the Senate, announcing the passege of a bill which originated in this house, entitled "an act supplemental to an act establishing the county of Russell."

A message from the Governor by Mr. Loughborough:

Mr. Speaker—The Governor did, on the 9th instant, approve and sign the following enrolled bills and resolutions, which originated in the House of Representatives, viz:

An act to alter the time of holding the Washington county court; an act to compel free persons of colour to work on roads and highways; an act to authorize the sale of certain ground in the town of Russellville; an act further to regulate the town of Nicholasville; an act to alter the time of the annual meeting of the General Assembly; an act to change the place of voting in the eastern precinct of Hardin county; an act to extend the limits of the town of Mountsterling; an act to authorize the trustees of the Lewis Academy to sell the lands belonging to that institution; an act to remove the seat of justice of Oldham county; an act to amend an act entitled "an act to provide for the running and marking of the county line between the counties of Owen and Grant;" an act for the benefit of Jacob Renner; a resolution appointing joint committees to examine the several offices, the Penitentiary and the Bank of Kentucky.

Ordered, That Mr. Prince inform the Senate thereof.

A bill from the Senate, entitled "an act to extend the terms of certain circuit courts in this Commonwealth," was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the said bill having been dispensed with, the same was committed to a select committee of Messrs. Woodson, Blackburn, Haskin and Cosby.

The house took up for consideration, the report of the committee of ways and means, made on the 5th instant, on the report made by the Reporter of the decisions of the Court of Appeals, together with the resolutions offered for adoption by said committee.

The said resolutions were then read.

A division of the question upon adopting said resolutions having been called for, the question was put on adopting the first resolution, which was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Spalding and Mullens, were as follows:

YEAS—Mr. Speaker, Messrs. James Allin, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—53.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, E. Watkins, Wilcoxen and S. White—37.

The question was then put on adopting the second resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. M'Clanahan and Spalding, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—54.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, E. Watkins, Wilcoxen, Wingate and S. White—38.

The remaining resolutions were then laid on the table.

The house then proceeded to the election of President and Directors of the several branches of the Bank of the Commonwealth, and after receiving and exchanging nominations with the Senate for those officers, taking a vote thereon, and appointing a committee on the part of this house, to meet a committee from the Senate to compare the joint vote and report the state thereof to each house,

The house then adjourned.

MONDAY, DECEMBER 12, 1825.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz. An act to compel the owners of warehouses and inspections, to keep therein steelyards, scales and weights made of cast iron, or patent balances; an act to regulate the appropriation of fines and forfeitures in certain counties in this Commonwealth; an act to allow additional justices of the peace and constables to sundry counties; an act for the benefit of Richard Apperson and Dillard Daniel; an act for the benefit of Isaac C. Chenowith and others; an act to authorize the county court of Grayson to appoint trustees to Millerstown; an act making an allowance to Thomas S. Page; an act to establish the county of Laurel; and an act supplemental to the act for the formation of Russell county.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Brown presented the petition of the Louisville and Portland Canal Company, praying an extension of the time allowed in the charter of incorporation, to complete said Canal.

Mr. Coleman presented the petition of the widow and infant heirs of James Pickens, deceased, praying that a law may pass to authorize the sale of a tract of land belonging to said heirs, in the county of Harrison.

Mr. Robert Taylor presented the petition of the trustees of the Franklin Academy, praying that a law may pass to authorize them to sell a part of the lands belonging to that institution.

And Mr. Daniel presented the petition of the administrators of Moses Dougherty, deceased, praying that a law may pass to authorize the sale of a tract of land belonging to the estate of the decedent.

Which petitions were severally received, read and referred; the first to a select committee of Messrs. Brown, Thomasson and R. Taylor; the second and fourth to the committee for courts of justice; and the third to a select committee of Messrs. Robert Taylor, Waddell and Marshall.

A message from the Senate by Mr. Denny:

Mr. Speaker—The Senate have passed bills which originated in this house, of the following titles: An act for the benefit of the widow and heirs of Thomas Blincoe, deceased; an act to amend the acts relative to the Shelbyville and Louisville turnpike company; an act to establish an election precinct in the county of Clark; have passed bills entitled, an act to alter the time of electing representatives to Congress; an act to provide for viewing and marking a way for a turnpike road from Maysville to Lexington,

thence in a direction to Nashville, and for other purposes; and an act for the divorce of John W. and Fanny Brite; and have adopted a resolution relative to the Treasurer elect for the ensuing year; in which bills and resolution, they request the concurrence of this house.

And then he withdrew.

Mr. Mayes, from the committee of religion, made the following report:

The committee of religion have, according to order, had under consideration the petition of Philip ———, praying for a divorce, to them referred, and have come to the following resolution thereupon:

Resolved, That the said petition *be rejected.*

Which being twice read, was concurred in.

Mr. Wade, from the select committee appointed for that purpose, reported a bill to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of an act approved December 24, 1824, as provides for the appointment of a fourth Judge; which was received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, it was then moved and seconded to commit said bill to a select committee, for the purpose of amendment; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Spalding and Maupin, were as follows:

YEAS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Napier, Perrin, Porter, Prince, Spalding, Stephens, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—33.

NAYS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruton, Cosby, Cox, Cunningham, Davis, Duke, Dyer, Farmer, Gaines, Gibson, Gordon, Green, Grundy, Hanson, Hardin, Hutchison, James, Logan, Mayes, Morris, Owings, Owsley, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Turner, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—45.

The said bill was then committed to the committee for courts of justice.

Mr. Skyles, from the committee appointed for that purpose, reported a bill to branch the Court of Appeals; which was received and read the first time.

It was then moved and seconded, to postpone the further consideration of said bill until the first day of June next; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon, by Messrs. Maupin and Skyles, were as follows:

YEAS—Mr. Speaker, Messrs. Barbee, Blackburn, Breck, Breckinridge, Brown, Bruton, Carter, Coombs, Cowan, Crittenden, Daniel, Farmer, Gaines, Gibson,

Gordon, Green, Hansford, Hanson, Hutchison, James, Logan, Marshall, M'Connell, Mullens, Owings, Owsley, Perrin, Reed, Sanders, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Waddell, Walker, Ward, B. E. Watkins, Wingate, A. White and Yantis—44.

NAYS—Messrs. James Allen, John J. Allin, Bainbridge, Chenowith, Coleman, Cosby, Cox, Cunningham, Davis, Duke, Dyer, Elliston, Fletcher, Grundy, Hall, Hardin, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Morris, Napier, Porter, Prince, Skyles, Slaughter, Spalding, Stephens, Sterrett, Underwood, Wade, E. Watkins, Wilcoxen, Wilson, S. White and Woodson—40.

Mr. Woodson, from the select committee to whom was referred a bill from the Senate, entitled "an act to extend the terms of certain circuit courts in this Commonwealth," reported the same with an amendment; which being twice read, was concurred in.

Ordered, That the said bill, as amended, be recommitted to a select committee of Messrs. Green, Woodson, Haskin, Wade and Ward.

A message from the Senate, by Mr. Denny:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act to amend the law establishing the town of Covington, at the mouth of Licking;" and have adopted a resolution providing for the appointment of a committee of conference, in relation to the Court of Appeals; in which resolution, they request the concurrence of this house.

And then he withdrew.

The said resolution was then taken up, twice read and concurred in; and Messrs. Crittenden, Hardin, Ward, Green, Haskin and Mayes, appointed a committee on the part of this house.

Ordered, That Mr. Hardin inform the Senate thereof.

Mr. Hardin, from the select committee to whom was referred a bill to amend the penal laws of this Commonwealth, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Dyer carry the said bill to the Senate, and request their concurrence.

Mr. Turner moved the following resolution:

Resolved, That a committee of five members be raised to enquire whether any, and if any, what preparations have been made of a military character, to prevent the Legislature or any of its committees, or any of the courts of judicature or their officers, from the discharge of their legitimate functions; and that said committee have power to send for persons, &c.

Which being twice read, was adopted; and Messrs. Turner, Breckinridge, Brown, Green and Mayes, appointed a committee pursuant thereto.

On the motion of Mr. Thomasson,

Ordered, That leave be given to bring in a bill supplemental to an act to remove the seat of justice of Oldham county, and that Messrs. Thomasson, Brown and R. Taylor, be appointed a committee to prepare and bring in the same.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Ward—1. A bill for the appropriation of money.

2. A bill for the benefit of the heirs of Benjamin Quin, deceased.

By Mr. Cosby—3. A bill for the benefit of William B. Harrison.

By Mr. Hardin—4. A bill for the benefit of John Caldwell and Thomas Tobin.

By Mr. Hall—5. A bill regulating proceedings in actions of tort.

And by Mr. Thomasson—6. A bill supplemental to an act entitled "an act to remove the seat of justice of Oldham county."

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills having been dispensed with, the first was committed to the committee of claims; the 5th, to the committee for courts of justice; the 3d, 4th and 6th, were ordered to be engrossed and read a third time; and the question being taken on engrossing the second bill and reading it athird time, it was decided in the negative, and so the said bill was rejected.

And thereupon, the rule of the house, constitutional provision and third reading of the 3d, 4th and 6th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Cosby carry the said bills to the Senate, and request their concurrence.

Mr. Coleman, from the joint committee appointed to compare the joint vote for Presidents and Directors of the Branches of the Bank of the Commonwealth, made a report of the joint vote, and that the following gentlemen were duly elected Presidents and Directors of the respective Branch Banks therein named; and they were accordingly declared duly elected, viz:

Flemingsburg Branch Bank—Wm. P. Fleming, President; G. W. Botts, J. D. Stockton, W. Goddard, J. Alexander, Aaron Owen, Larkin Anderson, John Dougherty, Charles Ward and James Morris, Directors.

Lexington Branch Bank—John Brand, President; Andrew M'Clure, David Megowan, Thomas H. Pindell, Matthew Kennedy, Daniel M. Payne, David Thompson, Elijah Craig and Samuel M'Hatton, Directors.

Falmouth Branch Bank—P. G. Kennett, President; T. G. Hall, James Wilson, James Nailor, F. Chalfant, Absalom Scurvin, Enoch Worthen, Wm. W. Southgate and James M. Preston, Directors.

Winchester Branch Bank—James Anderson, President; Lewis Grigsby, John Dudley, C. H. Taylor, Charles C. Moore, Willis Young, Henry T. Duncan, Benjamin Straughn and Wm. Jones, Directors.

Louisville Branch Bank—W. Pope, President; C. P. Luckett, S. Q. Richardson, Wm. Reed, Edward B. Miles, John M'Meekin, Benjamin Helm, Garnet Duncan, James M'Donald and Ab'm. Field, Jr. Directors.

Greensburg Branch Bank—John Barrett, President; Jos. Akin, E. Creel, Peter B. Atwood, James Laslie, Ignatius Hazle, Nathan Gaither, Joseph Alexander, Joseph G. Hardin, Hezekiah P. Murrell and William E. Munford, Directors.

Princeton Branch Bank—J. H. Phelps, President; Joseph R. Given, Jeremiah Rucker, Mercer Wadlington, John S. Anderson, John M'Gahan, Robert C. Bingham, Samuel Woodson and John P. Campbell, Directors.

Hartford Branch Bank—Charles M'Creary, President; Charles Henderson, Benjamin Smith, John H. M'Henry, Richard L. Walker, John Field, John Murray, James Hillyer, Wm. Pollard, John Rogers and Joshua H. Daviess, Directors.

Bowlinggreen Branch Bank—John Loving, President; Alex'r. Graham, James T. Morehead, Joseph H. Smith, Asher W. Graham, Samuel Moore, Thomas Hale, Wm. Carson and Thomas S. Slaughter, Directors.

Harrodsburg Branch Bank—B. Magoffin, President; Joel P. Williams, C. Chinn, David Sutton, Jesse Head, Thomas Head, Thomas E. West, Jesse Coffee and D. L. M'Kee, Directors.

Mountsterling Branch Bank—H. Daniel, President; C. Banks, S. D. Everett, T. C. Barnes, M. Thomas, J. S. Oakley, William Ward, Samuel May and Elihu Owings, Directors.

Somerset Branch Bank—William Fox, President; J. Griffin, H. James, Joseph Porter, Charles Hays, Benjamin Eve, John Chrisman, James Terrill and Adam Wilson, Directors.

On motion,

Ordered, That Messrs. Robert Taylor and Sterrett be added to the committee to whom was referred, a bill to amend the laws in relation to working on public roads.

A resolution from the Senate, relative to the Treasurer elect for the present year, was taken up, twice read and concurred in; and Messrs. Yantis, Lee, Lackey, Dunlap, Cowan and Sanders, appointed a committee on the part of this house.

Ordered, That Mr. Yantis inform the Senate thereof.

The house then proceeded to the election of a President and four Directors, on the part of the State, for the Bank of Kentucky for the ensuing year; and after receiving from, and exchanging nominations with the Senate for those officers, taking a vote thereon and comparing the joint vote by a committee from each house, the following gentlemen were declared duly elected for the ensuing year, viz: John Harvie, President; Robert Alexander, Peter Dudley, Charles Miles and Daniel Weisiger, Directors.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor has this day approved and signed the following enrolled bills, which originated in the House of Representatives, viz: An act for the benefit of Isaac C. Chenowith and others; an act to compel owners of warehouses and inspections to keep therein steelyards, or scales and weights made of cast iron, or patent balances; an act to establish the county of Laurel; an act making an allowance to Thomas S. Page; an act to authorise the county court of Grayson to appoint trustees to Millerstown; an act to regulate the appropriation of fines and forfeitures in certain counties in this Commonwealth; an act for the benefit of Richard Apperson and Dillard Daniel; and an act to allow additional justices of the peace and constables to sundry counties.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

A bill to alter and amend the laws in relation to executors and administrators, was re-committed to a select committee of Messrs. Breck, Underwood, Mayes and Cosby.

The following bills from the Senate were severally read the first time and ordered to be read a second time, viz: 1, An act further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands; 2, an act for the benefit of Paul Barnet; 3, an act to amend an act authorising the sale of the vacant land between Walker's line and the latitude 36° 30′ north, in the State of Tennessee, and for running and marking the latitudinal line; 4, an act to alter the mode of taking in lists of taxable property; and 5, an act for the benefit of John Ritchey of Allen county.

And thereupon the rule of the house, constitutional provision, and second reading of the 1st, 2d, 4th and 5th bills having been dispensed with, the first was committed to a select committee of Messrs. Underwood, Morris, Hanson, Thomasson and M'Connell; and the second, fourth and fifth, (the fourth having been amended at the Clerk's table,) ordered to be read a third time.

And thereupon the rule of the house, constitutional provision, and third reading of the second, fourth and fifth bills having been dispensed with,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Maupin inform the Senate thereof, and request their concurrence in the amendments proposed to said bill.

A message from the Senate, by Mr. Howard:

Mr. Speaker—The Senate have passed bills which originated in this house, of the following titles: An act supplemental to an act entitled "an act to remove the seat of justice of Oldham county;" an act giving further time to the Independent Banks to settle their concerns; an act to add a part of Caldwell county to the county Trigg, and for other purposes; and have passed a bill entitled "an act for the benefit of Daniel Rowlett, Surveyor of Calloway county, in which bill they request the concurrence of this house.

And then he withdrew.

A bill to give remedy against executors and administrators in certain cases, was read a second time and committed to a select committee of Messrs. Woodson, Yantis, Turner and Thomasson.

And then the house adjourned, to meet at the Methodist Church on to-morrow at 10 o'clock.

TUESDAY, DECEMBER 13, 1825.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration the resolution referred to it, directing an inquiry into the expediency of repealing the act allowing to clerks a compensation out of the public Treasury for *ex officio* services, and report thereupon:

From the examination of the committee into the law and facts connected with the subject referred to them, it has been ascertained, that the clerks of the circuit courts have a great deal of business to do for the Commonwealth, in all prosecutions for misdemeanors and felonies, such as issuing *subpœnas*, &c. and the only compensation which they receive, is the sum *allowed* for their *ex officio* services, which, in the opinion of the committee, is not more than a reasonable equivalent for their services. The committee, therefore, report the following resolution:

Resolved, That it is inexpedient to repeal the law allowing to clerks of the circuit courts, compensation for *ex officio* services.

Which being twice read, was concurred in.

Mr. Underwood, from the select committee to whom was referred a bill from the Senate, entitled "an act further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands," reported the same with amendments; which being

severally twice read, were concurred in, and the said bill, as amended, ordered to be read a third time to-morrow.

A message from the Senate, by Mr. Selby:

Mr. Speaker—The Senate have passed bills of the following titles: An act to allow an additional justice of the peace to the county of Casey; an act for the benefit of David White; and an act to amend an act entitled, "an act to authorize George M. Bedinger to build a bridge across Main Licking river, at the Lower Blue Licks;" in which bills, they request the concurrence of this house.

And then he withdrew.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed by the Governor, to lay before this house a message in writing.

And then he withdrew.

Leave was given to bring in the following bills:

On the motion of Mr. Fletcher—1. A bill to establish the town of Sharpsburg, in the county of Bath, and appoint trustees.

On the motion of Mr. Underwood—2. A bill to declare Red river, in Logan county, navigable.

On the motion of Mr. Harvey—3. A bill allowing an additional justice of the peace to Hopkins county.

And on the motion of Mr. A. White—4. A bill to permit the citizens of Clay county, to pass through the gate on the salt works road, toll free.

Messrs. Fletcher, Coleman, Timberlake and Owings, were appointed a committee to prepare and bring in the first; Messrs. Underwood, Skyles and Prince, the second; Messrs. Harvey, M'Millan and Mayes, the third; and Messrs. A. White, Slaughter and Breck, the fourth.

A message was received from the Senate, announcing the passage of bills which originated in this house, of the following titles: An act for the benefit of Richard T. Jones and wife; an act for the benefit of John Smoot; and an act for the benefit of William B. Harrison.

Mr. Ward, from the committee of claims, to whom was referred a bill for the appropriation of money, reported the same without amendment.

Ordered, That the said bill be committed to a committee of the whole house.

Mr. Yantis, from the select committee appointed for that purpose, reported a bill for the benefit of the heirs of Michael Wallace, also the heirs of Jesse Hood, also the heirs of William Turley, also the heirs of Samuel Chew; which was received and read the first time, and the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Robert Taylor—1. A bill to authorize the trustees of the Franklin Academy, in the county of Mason, to sell part of the land belonging to said Academy.

By Mr. Underwood—2. A bill for the benefit of John A. Young and wife.

By Mr. B. E. Watkins—3. A bill for the benefit of William Steel.

And by Mr. Slaughter—4. A bill to regulate the duties of the gate-keeper, on the turnpike and wilderness road.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first and third bills having been dispensed with, the first was ordered to be engrossed and read a third time, and the third was committed to a select committee of Messrs. Watkins, Napier and Walker.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Taylor carry the said bill to the Senate and request their concurrence.

An engrossed bill entitled, "an act to establish election precincts in Monroe county, and for other purposes," was read a third time and committed to a select committee of Messrs. Blackburn, M'Millan and E. Watkins.

The following bills were severally read a second time, viz. 1, A bill to legalize the acts of the Treasurer, in accepting and paying the orders of the Governor, one for $5,000, and the other for $3,086, drawn by him to entertain General Lafayette while in this State, and for other purposes; and 2, a bill to punish slaves for certain offences.

The first, together with the report of the committee of ways and means on that subject, was recommitted to the committee of ways and means; and the second to a select committee of Messrs. Underwood, M'Connell, Walker and Hanson.

Mr. Harvey moved the following resolution:

Resolved, That the committee of ways and means be permitted to re consider their report, which they made out on the report of the committee of arrangement, appointed by the Governor, for the reception and accommodation of General Lafayette, and that they be authorized to send for persons, papers, &c. The account previously rendered your committee, appears chiefly to be made out in *dittoes*. The committee, in part, are of opinion, that those

dittoes are unusually high, and, therefore, wish every item particularly rendered, in an account made out by the person from whom they were purchased; and also, an account of all the *dittoes* sold, and to whom sold, and the price sold for, that a full and fair statement of both debt and credit, may fully and fairly appear; and that the committee be permitted to report by bill or otherwise.

Which being read, was laid on the table.

And then the house adjourned.

WEDNESDAY, DECEMBER 14, 1825.

Mr. Allin, (of Mercer,) from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles, and had found the same truly enrolled, to wit: An act for the benefit of John Ritchey, of Allen county; an act to establish the town of Athens; an act for the formation of the county of Russell, out of the counties of Adair, Cumberland and Wayne; an act for the benefit of the widow and heirs of Thomas Blincoe, deceased; an act to amend the act relative to the Shelbyville and Louisville turnpike road company; an act to add a part of Caldwell county to the county of Trigg, and for other purposes; an act to establish an election precinct in the county of Clark; an act to amend the act establisbing the town of Covington, at the mouth of Licking; an act supplemental to the act entitled, "an act to remove the seat of justice of Oldham county," approved 9th December, 1825; a resolution relative to the Treasurer elect for the ensuing year; and a resolution providing for the appointment of a committee of conference in relation to the Court of Appeals.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Allin (of Mercer) inform the Senate thereof.

1. Mr. Breck presented the petition of Hugh Brown, the committee of Fanny Hoy, a lunatic, praying that a law may pass to authorize him to sell and convey the interest of said lunatic, in and to certain lands, which descended to her from her father, and to apply the proceeds to pay the expences of supporting and maintaining said lunatic.

2. Mr. New presented the petition of the widow and executrix and heirs of Stephen Temple, deceased, (some of whom are infants,) praying that a law may pass to authorize the sale of a part of the landed estate of the testator, for the purpose of discharging the debts due by said estate.

3. Also, the petition of sundry citizens of Todd county, praying the establishment of an election precinct therein.

4. Mr. Thomasson presented the petition of Amos Edwards, of Louisville, praying compensation for the losses he sustained in making provision for the entertainment and accommodation of General Lafayette, while on a visit to this State.

5. Mr. Brown presented the petition of the owners of the Steam Boat Mechanic, representing that said boat was chartered to convey General Lafayette to Louisville, and while on her passage from the mouth of Cumberland river to Louisville, unfortunately struck a snag, and immediately sunk, and praying remuneration for their loss aforesaid, out of the public Treasury.

6. Mr. Underwood presented the petition of Jesse Bettisworth, deputy sheriff of Warren county, praying that a law may pass to refund to him $21 25, paid by him for the apprehension of a convict, who escaped as he was conveying him to the Penitentiary.

Which petitions were severally received, read and referred; the first to a select committee of Messrs. Breck, Bruton, Turner and Daniel; the second to the committee for courts of justice; the third to the committee of propositions and grievances; the fourth and fifth to the committee of ways and means; and the sixth to the committee of claims.

Mr. Hardin, from the committee of ways and means, made the following report:

The committee of ways and means have had under consideration the resolution referred to it, to enquire into the expediency of so altering the law, that guards summoned to secure a man when in jail, shall be paid by the county where the prisoner is kept, and report thereon:

The committee, from an examination into the law and facts connected with the resolution above referred to, state, that by the law as it now stands, when a guard is summoned for the safe-keeping and securing a prisoner confined in jail, if the jail has, by the circuit court, been received as sufficient, then the guard is paid out of the public Treasury. The amount drawn one year with another, will not average more than $2,000, although last year about $4,000 was drawn, owing, in a great measure, to a prosecution now depending in the county of Harrison. The committee are induced to believe, that some times jails are received, which are insufficient, and at other times, become insufficient after they are received. The commtttee are also induced to believe, that it some times happens, that a guard is summoned which is unnecessary, and would not be if the same was a county charge. The committee report a bill.

The committee are also of opinion, that in the cases of attachments carried on at the instance of private individuals, and for their benefit, but yet in the name of the Commonwealth, costs should not be a public charge. To remedy that inconvenience, the commiitee report a bill.

Mr. Hardin, from the same committee, reported a bill to amend the penal laws; which was received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, the same was laid on the table.

Mr. Hardin, from the same committee, reported a bill to provide for the public expences of the current year; which was received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hardin carry the said bill to the Senate, and request their concurrence.

A message was received from the Senate, announcing the passage of bills which originated in this house, of the following titles: An act establishing the town of Williamstown, in Grant county; an act for the benefit of William N. Potts; and an act concerning the turnpike road from Georgetown to Cincinnati—with amendments to the latter bill; and the passage of bills of the following titles: An act to authorise the editors of the Western Intelligencer and Columbia Reporter, to insert certain advertisements; an act for the benefit of Charles Helm; an act for the benefit of Thomas Branscomb; an act for the relief of Cyrus Talbot; and the adoption of a resolution concerning the judiciary of this State.

A message from the Senate, by Mr. Chilton, their Secretary:

Mr. Speaker—The Senate concur in the amendment proposed by this house, upon concurring in that proposed by the Senate, to a bill from this house, entitled "an act to alter the mode of appointing Trustees to the Fleming Academy." They have passed bills which originated in this house, of the following titles: An act for the benefit of Henry Harlow and others; an act to repeal in part, an act entitled "an act for the benefit of Zachary Conclude; an act to amend the law in relation to delivery bonds; an act to compel owners and occupiers of land, to fill up or enclose or cover pits and wells fallen into disuse; an act for the benefit of Elijah Adkins; an act for the benefit of Eliza H. Eachus; an act to add a part of Pulaski county to the county of Whitley; and an act for the benefit of Daniel Dougherty—with amendments to the two latter bills, in which they request the concurrence of this house; and they disagree to a bill which originated in this house, entitled "an act further to regulate the debts and salaries due by this Commonwealth."

And then he withdrew.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—I am directed to lay before this house a message in writing.

And then he withdrew.

Mr. Turner, from the select committee appointed for that purpose, made the following report:

The committee raised to enquire whether any, and if any, what military preparations had been made to prevent the House of Representatives or any of its committees, or any of the courts of justice, from the discharge of their legitimate functions, have, according to order, made such inquiry, and submit for the consideration of the house, the following report:

Under an act of assembly of the last session of the Legislature, purporting to repeal the law organizing the court of appeals and re-organizing a court of appeals, the Governor appointed four individuals, Judges of said court, who assumed the powers of Judges, appointed F. P. Blair their clerk, and proceeded to act as a court; that the Judges theretofore in office, denied the validity of said law so far as it went to vacate their offices, and relied on the provisions of the constitution, securing to them their offices until removed by impeachment or address.

The newly organized tribunal contended for the validity of said act, and made an order directing the papers and records of the court to be taken from the clerk of the old court *by force*, which was accordingly done.

The citizens of the State being greatly divided in opinion on the question of the validity of the said act of assembly, the old court, and those who sustained its pretensions, determined neither to resist the caption of the papers and records nor to attempt to retake them by force, but to appeal to the good sense of the people for the protection of their constitution and the independence of the supreme judiciary. An appeal was accordingly made; in which appeal the new court and its friends joined. So far, to the credit of both parties, it appeared this dispute was to be settled by *reason, and not by arms*. Each party expressed an entire determination to submit to the decision of the people.

The election resulted in favor of the old court, and for a time a delusive hope was entertained, that, faithful to the pledge of abiding the decision of the people, the new court and its friends would end the unprofitable contest; that we should again be one people, and that in future the wisdom and energies of the State would be directed to the advancement of those great objects of State concern, which are occupying the attention of our sister States.

Before the commencement of the present session of the Legislature, there were some circumstances occurred which diminished the confidence entertained that the contest was at an end; yet all looked forward with anxious care to the message of the Governor,

for information of a conclusive character. It is true, a large portion of the community had ceased to look to that branch of the government with that confident hope of receiving what we should naturally look for, from the father of his people.

The message, when it came, was a bitter pill. To sixty-two hundredths of the people it proposed a compromise, the terms of which was to yield the great constitutional question which they had settled in favor of the old court, and if this were not done, the re-organizing law and the new court were to be supported, and the old court was *threatened to be resisted by force*, "through scenes yet untried."

A committee was raised in this house to ascertain and report the obstacles in the way of the court of appeals in the discharge of its duties, with power to send for persons and papers. That committee reported some of the above facts; upon which report, a resolution was passed, declaring that the Judges in office before the passage of said act of assembly, were yet the only constitutional Judges, and that they had the power, and ought to exercise it, of taking their papers from F. P. Blair. Said Judges accordingly entered up an order on the 7th instant, directing their sergeant to take said papers and records and deliver them over to their clerk.

Your committee would state, that the foregoing history of the judicial contest was necessary, to make the facts embraced in the order directing their inquiry, intelligible, of which they now submit a condensed statement; also, the depositions taken, which are made a part of this report.

It appears in proof, that George M. Bibb, Esq. has a law office in the town of Frankfort, in which office there are several rooms; that said office is immediately fronting the chamber heretofore occupied during this session by the House of Representatives, and about one hundred yards distant therefrom. Said Bibb's office is between the room where the old court held its late session and the office of F. P. Blair, and about sixty yards distant from the latter. Edward B. Bibb is the son of George M. Bibb, is an attorney at law, and commands a company of militia; the company is furnished with muskets from the public arsenal; that said Capt. Edward B. Bibb occasionally occupies one of the back rooms in his father's office, and in which room the aforesaid muskets are kept when not in use by the company. It also appears that Marcus B. Desha, a son of the Governor, is reading law with G. M. Bibb, and in part occupies said room where said arms are kept. Mr. Bibb married the daughter, and Mr. Blair the stepdaughter of the late General Scott.

The first week in November, or the last in October last, Mr. Dallam, a young man who acted as deputy under Mr. Blair, as clerk of the court of appeals, went to Capt. Bibb's room, where

said arms were, in the night, and told Capt. Bibb Mr. Blair wanted some muskets, and Bibb loaned Dallam twelve or fourteen muskets, which he carried to Blair's office, and they are yet there. Bibb did not see Blair that evening, but Blair has since informed him that he wanted said guns to defend his possession of the papers. It appears that the old court sat on the Friday before the first Monday in November, and that the Legislature commenced its session on the first Monday in November. On the 8th instant, and the next day after the old court made the aforesaid order to take the papers, Capt. Bibb loaded eighteen of said muskets with powder and buckshot, and screwed on their bayonets. To these facts Capt. Bibb testified himself, but refused to state the object of thus loading and fixing the bayonets on said muskets. It appeared by other testimony that Capt. Bibb had said that he loaded said guns to resist the execution of the order of the old court. The said guns were actually fired off at the time the House of Representatives adjourned on the 10th instant, in a short distance of the chamber where the said body sat, as the members were passing out of the house.

Young Mr. Desha stated that he was present when the guns were loaded, and he supposed they were loaded for the purpose aforesaid, but he did not hear Capt. Bibb say so. He also stated he had been spoken to by Mr. Blair to assist in defending him in the possession of the aforesaid papers, and that he considered himself bound to have done so, either against the order of court or the House of Representatives.

The proof shows that divers persons had either been requested to assist Mr. Blair in forcibly retaining the papers, or had voluntarily agreed to do so.

It appears that Mr. Blair had informed the Governor he intended to use force in the defence of his possession of said papers. It appears that the public records and papers have been for some considerable time past removed from the office where Mr. Blair formerly kept them, and *secreted*, so that the citizens who have suits in the appellate court, cannot see their papers, obtain copies of their title papers which are on record in said office, or ascertain any fact or facts which their interest may require.

They would here state, that they are fully convinced that Mr. Blair is not the constitutional clerk of the court of appeals. He, however, claims to be such; the laws and his oath require him to keep his office open and his records ready to be inspected by any citizen who may require the same. A large portion of the evidences of title to lands are in his possession; there is a daily call for these papers, and for copies, by persons from every part of the State; yet in defiance of all law and all right, the originals cannot be seen nor copies obtained.

The foregoing statement of facts, cannot but make, on the minds of your committee, the strongest impressions of the awful crisis at which the judicial controversy which agitates the country, has arrived.

Heretofore, party spirit and unwise legislation have sufficiently blighted the prospects of the once most prosperous part of creation; yet in all our struggles and divisions, reason, and not brutal force, was alone appealed to.

Judging from the declarations of his Excellency, in the canvass for his present station, whatever the people said, was to be the supreme law of his administration. The threat in his message, to resist the popular will, as evinced at the late election, was, on that account, heard with the greater surprise. Still, that his Excellency would openly or indirectly attempt to execute his threat, or that he would even connive at the fact that others were preparing to shed the blood of his fellow-citizens, and that he would use no efforts to prevent it, was not believed.

Nay, your committee must say, that they had fondly cherished a belief, that there was no officer or pretended officer of this government, that was ready to light up the torch of civil war and imbrue his hands in the blood of a brother. Yet, unwilling as they were to believe the fact, they are constrained to report to you, that bold arrangements have been made for these very purposes. Your committee therefore recommend the following resolution:

Resolved by the House of Representatives of the Commonwealth of Kentucky, That each and every citizen of this Commonwealth be advised and admonished to abstain from aiding or abetting F. P. Blair and his associates in resisting or attempting to resist the Sergeant of the Court of Appeals in the execution of the order or process of said court, and from all other attempts to excite commotions in the country or to disturb the public peace and harmony.

DEPOSITIONS.

The statement of *Charles Julian*, who being first duly sworn by Oliver G. Waggener, a justice of the peace for Franklin county, states, that on Saturday the 10th instant, went to Mr. G. M. Bibb's office to get a musket to parade with; was told by Thomas Smith, that all the muskets that had quills in their touch-holes, were loaded, and cautioned to elevate the piece when it was discharged. Deponent fired the piece; it was very heavily charged; went off clear, as if recently loaded; does not know whether it was charged with shot; Smith told him it was; does not know how many muskets there were; the office where the guns were, was near and in front of the representative hall, about a hundred yards from it.

CHARLES JULIAN.

Thomas Smith, sworn by Lewis Sanders, jun. a justice as aforesaid, states: Saw muskets at the office of Mr. Bibb, on the 10th instant; does not know how many; had seen them there frequently; had drawn his gun as a member of Captain Edward B. Bibb's company, from that office, for some months back. When he went to get his gun on that morning, he was told the piece was loaded; does not remember who told him so; had, before that day, had intimations that guns were loaded. Deponent thought that they would be used to prevent the papers of the Court of Appeals from being taken from the clerk of the new court; was asked to defend them, if there should be an attempt to take them.

He was asked, who asked him to assist in defending them? which interrogatory, he refused to answer; but afterwards answered and stated, that it was Captain Edward B. Bibb. Understood from Captain Bibb, that an order had been issued to take the papers, and that it would be resisted.

THOMAS SMITH, Jr.

Fountain Cunningham, sworn by Oliver G. Waggener, states: That he is a member of Capt. E. B. Bibb's company; went to the office of Mr. G. M. Bibb, on the morning of the 10th instant, to see if it would be agreeable to Mr. Bibb's family, to bury a deceased son of Mr. Bibb, with military honors; was told by Captain Bibb that it was; but that there were not guns enough, and an order was given for twenty muskets from the public armory; Mr. Smith had the order. Deponent was informed, when on parade, that the guns were charged with balls; does not remember who told him so; the men were directed to elevate their pieces in firing. The guns of the company had been kept at the office of Captain Bibb, for a long period.

F. CUNNINGHAM.

Captain Edward B. Bibb, sworn as aforesaid, states:

1*st Question*—What number of muskets and bayonets had you in your possession, on the 10th instant?

Answer—I had about twenty-three or four.

2*d Q.*—Were they, previous to being taken on parade, loaded with ball or buck-shot, with bayonets ready for action?

A.—About eighteen of the muskets were loaded with buck-shot and their bayonets fixed.

3*d Q.*—At what time was this done, and by whose direction, and for what purpose?

A.—They were loaded on the morning of the eighth instant, by myself, and of my own mere motion. For what purpose they were loaded, I object to answer. The constitution guarantees to every individual, the right to bear arms, and consequently, to keep them loaded, if he think proper. If there is any crime in keeping

loaded guns, another clause of the same constitution, declares that no one shall be compelled to give evidence against himself. For these reasons, I object to the question.

4th Q.—Were the arms public arms, and were they not put in your possession as captain of a militia company.

A.—I am captain of a militia company, and drew the arms from the public arsenal, first giving bond and security in double the amount of the value of the guns, to account for the same.

5th Q.—Who was present or had a knowledge of the loading of the arms?

A.—Mr. Marcus B. Desha was present and knew of the loading of the arms; there were several others in after the arms were loaded; whether they examined to know whether they were loaded or not, I know not; and whether I told any person or persons they were loaded, I do not now remember. On the 10th, I told Captain A. W. Dudley they were loaded, and that he had better fire them off before going on parade.

6th Q.—Did you receive official order from any officer, your senior in command, to hold yourself or company in military preparation for any purpose whatever; or were intimations of any kind made to you by any one, considered by you a public officer of any description, to aid him or them with arms, in any event or for any purpose; if so, who were they, and what was the purpose?

A.—I received no orders from any officer of any description or rank, either civil or military; nor were intimations of any kind made to me, by any public officer, either civil or military, except Mr. Blair, to aid him or them with arms, in any event, or for any purpose.

7th Q.—Had you not more arms than the twenty-three above spoken of; and if so, in whose possession were the remainder, from the first to the tenth instant?

A.—In April, I drew sixty stand of arms. In July or August, at the request of the quartermaster-general, I sent twenty stand of arms to Cynthiana, to Mr. N. D. Coleman, and held the order of the Governor upon the quartermaster-general, in favor of Mr. Coleman, for twenty stand; which order was presented by Mr. Thomas Smith, by my directions, and the guns drawn on the 10th instant. Twelve or fourteen stand I loaned to Francis P. Blair, in whose possession I presume they now are.

8th Q.—When did you loan them to Mr. Blair, and for what purpose did Mr. Blair state he wanted them?

A.—I loaned them about the last of October or first of November. He sent Henry Dallam to me for them, one night; consequently, he gave me no intimation for what purpose he wanted them, at that time; since, I have heard him say, that he did not mean to obey any order of Boyle, Owsley and Mills, in relation to the papers and records of the Court of Appeals, and that he meant

to keep possession of the papers, if possible. From this I infer, he wanted the guns to aid him in keeping possession of said papers.

9th Q.—Have you any knowledge of any messages, communications or consultations, between any persons, on the subject of force contemplated or intended to be used against any citizen or citizens of this Commonwealth, and more particularly against the House of Representatives, or any committee, officer or messenger of said house?

A.—I have not heard, nor do I know of any such messages, consultations or communications, concerning any citizen or citizens of this Commonwealth, nor concerning the House of Representatives, nor any of its committees or officers.

10th Q.—Have you received any information from Mr. Blair or any other person, of the place where the papers are kept concealed?

A.—I think I have heard Mr. Blair say, that they were in his dwelling-house; and some day last week, I was told by Captain Gist, that they were not there, and where they were, he did not inform me. I do not know certainly, where they are.

E. B. BIBB.

Mr. Marcus B. Desha, being sworn as aforesaid, to the several interrogatories put to Capt. E. B. Bibb, answers and states:

To the third interrogatory—at what time were the muskets in Capt. Bibb's possession loaded, by whose directions and for what purpose?

He answers, they were loaded either on the eighth or ninth inst.; by whose directions they were loaded he does not know; for what purpose they were loaded he does not know; he imagines they were loaded for the purpose of defending and protecting the office of F. P. Blair as clerk of the court of appeals; he thinks he heard so; from whom he does not recollect.

Were you applied to, to aid in the defence of the papers of the Court of Appeals, in the possession of said F. P. Blair; and if so, by whom?

He thinks he was applied to by Mr. Blair to stay in the office; he understood it as a request to aid him in the defence of the papers, if they were attempted to be taken from him. This application was made on or about the 8th or 9th instant. He paid but little attention to the request, as he knew no attempt would be made to take them. If there had been, he should have aided in their defence, as he holds himself bound at all times to do, and should have considered himself bound to have used arms, and those particular arms would have been used, and others, if necessary.

Would you have resisted or aided by arms in the defence of these papers, with a view to retain them in the possession of Mr. Blair,

against an order of the House of Representatives, one of their committees, or any other persons, save the new court?

A majority of the committee considered the deponent not bound to answer this interrogatory, but he voluntarily answers and states, he would have considered himself bound so to have resisted.

M. BRUTUS DESHA.

Jeremiah W. South, being first duly sworn; this deponent, in answer to interrogatories put to him, states: That he knew of some muskets being loaded in Mr. Bibb's office; how many muskets there were, by whom loaded, or for what purpose, he does not know. The inference he drew from a conversation with Mr. F. P. Blair, was, that Mr. Blair desired to know whether he held himself in readiness to defend the papers of the Court of Appeals in said Blair's possession, which inference was drawn from Mr. Blair's asking him, "did he hold himself in readiness?" He does not know of any organized plan to defend the papers; has heard of none such; nor does he know where the papers are at this time.

J. W. SOUTH.

Ambrose W. Dudley, being first sworn, states: That he was requested to take the command of Capt. E. B. Bibb's company at a parade on the 10th inst.; that Capt. Bibb informed him before the parade, that some of the muskets were charged with buck-shot; that he ordered them to be fired off; that he was afterwards shown some of the shot said to have been discharged from the pieces; that he saw several of the guns; they seemed in perfect order, recently loaded, with quills in their touch-holes.

A. W. DUDLEY.

Samuel P. Weisiger, being duly sworn, states: That he is a member of Capt. Bibb's company; that on the 10th inst. as he was going to Mr. Bibb's office for a gun to parade with, he saw Mr. Thomas Smith, who told him that the muskets which had bayonets fixed, were loaded.

S. P. WEISIGER.

Lewis Sanders, being first duly sworn, states: That in April last, or about that time, there was a rumor that a number of men were about to make an attempt to take the papers of the Court of Appeals from the clerk of the new court; that to prevent it, he aided others in carrying muskets to the office of F. P. Blair, to be used in their defence; he got the guns out of a box in Mr. G. M. Bibb's office; they were not loaded when they were got from Mr. Bibb's office, but he believes were charged during the night;

deponent was at that time a justice of the peace; about night on the day alluded to, he was told that Mr. Sneed had returned to Frankfort from the lower part of the State; that 50 or 100 men were near the town, coming with a view to take the papers from the new, and restore them to the old clerk; that this deponent immediately determined to defend the office of Blair, if it should be attacked; that with that view, he carried the arms as above stated to Blair's office; that he got Mr. Frederick Roberts, Taliaferro Sanders, James Monroe, and one other person not recollected, to go to Blair's office and spend the night; about midnight he went out to reconnoiter; found that there was no cause of alarm; returned, went home and went to sleep. He believes the rumor about the 50 or 100 men, was without foundation. On the 9th of this inst. Mr. Depew called on this deponent, stated that the old court had issued an order to take the papers, and requested, if he heard any affray at the office, that he would go over as a magistrate and command the peace. He has heard several persons say that they would assist to prevent the papers from being taken from Mr. Blair.

L. SANDERS, JR.

Jacob Gudgel, sworn, saith: He knows of no arrangement to use force in defense of the papers in the possession of F. P. Flair.

JACOB GUDGEL.

Col. E. H. Taylor, sworn, saith: That no person has ever made application to him as Quartermaster General, for one or more muskets to assist in taking the papers from F. P. Blair, and no person has been in the arsenal to get any arms for such purpose; the arms are all boxed up, except a few old rusty muskets; he has in no instance delivered any muskets to any person, except in pursuance to an order given by the Governor, with one exception, when Lafayette was here, he delivered sixteen stand to Capt. Porter. On Saturday last, he delivered to Capt. Bibb, on an order from the Governor, 20 stand of muskets. The lock of the arsenal door is bad, and when he went there on Saturday, it was not locked, but the arms did not appear to have been disturbed, and he believes no person had been in the house.

Neither Col. R. Taylor or any other person, ever applied to him for any arms to assist in restoring the papers to the old court.

EDMUND H. TAYLOR.

Alexander R. Depew, sworn, saith:

Question.—Do you know of any concerted or organized system of preventing the House of Representatives, or its committee, or officers, or the old Court of Appeals or its officers, from taking the papers from F. P. Blair?

Answer.—As to the House of Representatives, I have no knowledge; as to the others, I know nothing which I consider myself bound to state.

Q.—Do you know or have you reason to believe that the Governor has given assurances or intimations, directly or indirectly, that in case of a conflict taking place about the papers of the Court of Appeals, and death or wounds ensuing in such conflict, that individuals engaged in defence of the papers should not be punished for what they might do on that occasion?

A.—I do not consider myself bound to answer, because the Governor is not impeached, and I do not consider that this committee have a right to take ex parte evidence. I will nevertheless state, that I have no knowledge, either directly or indirectly, of any such assurances. I further do know, I heard the Governor say he would not interfere, unless it became imperiously necessary, under the laws and constitution of the country, to suppress an insurrection and preserve the public peace.

Q.—Do you know, or have you reason to believe, that the Governor does consider an attempt to take the papers of the appellate court from F. P. Blair, by the House of Representatives, or the old Judges or officers, such a disturbance of the public peace as requires his interposition under the laws and constitution.

A.—As to the interposition of the House of Representatives, I know nothing of his opinions. As to an interference of the old Judges, or persons under their authority, I know from his declarations that he would not consider any thing an insurrection requiring or authorising his interference, except what would be supported by armed force, and which would be denominated an insurrection in any other case, under the laws and constitution of the country.

By same—Do you, or not, know, or have you reason to believe, the Governor had a knowledge or intimation of the preparations on the part of Capt. Bibb and others to use armed force in the defence of Mr. Blair's possession of said papers.

A.—I have had no conversation with the Governor since I knew myself of said guns being loaded; and I do not know from others that he received information of said guns in possession of Bibb, being loaded. And I do not know that it was intended to use those guns in the manner mentioned, unless in case of an insurrection, the officer should be required.

He does not know that the Governor had any knowledge that Capt. Bibb or others under his command, intended to use any armed force, unless he should be required in case of insurrection.

Here the committee informed Mr. Depew that his answer was considered evasive, in this, that he had not answered the fact whether he knew that the Governor knew or had intimations of the preparations making to defend F. P. Blair in the possession of

the papers of the appellate court; but he refused further to answer said question.

He then further stated, that he does not believe that the Governor knew or had any intimations that Mr. Bibb or others were making preparations, to use any military force, unless he should be required to suppress an insurrection, nor did he believe Capt. Bibb intended to use force in any other event.

By same—Have you any knowledge or reason to believe that the Governor knew or had an intimation that Capt. Bibb was making preparations to suppress an insurrection, in case one should take place?

A.—I think it is probable the Governor had a knowledge of the preparations. I have reason to believe that the Governor was informed that there was danger to be apprehended; that the public arms might be seized upon, and that it might become necessary, in order to preserve the public peace, to prevent them from being seized upon by any persons.

Q.—State the reasons, and all the reasons, you have for believing that the Governor knew or had information of Bibb's preparations?

A.—I was informed and heard it frequently spoken of, that a noise had been heard in the armory on the third of this instant, while the door and windows of it were closed, which was conjectured (by Capt. Henry C. Gist, who heard it,) to be a preparation of the arms in the armory, by fixing flints, or something of that nature. I think it probable that the Governor heard of this, although I do not know, nor did I ever hear he did.

The deponent was informed by the committee that this answer was irrelevant and evasive, but he persists that it is his only answer to the question.

Q.—Had you any of the public arms in your possession between the first and twelfth instant? If any, what? what numbers? by whom given to you, and for what purpose?

A.—At that period I had no public arms whatever.

Q.—Have you or not, heard or had conversations in the presence and hearing of the Governor, about Bibb's preparations, or any other preparations to defend the papers in possession of F. P. Blair?

A.—I have heard Mr. Blair say, in the presence of the Governor, that he meant to defend them. I heard the Governor, in the same conversation, say, that he would not interfere unless it became his duty under the constitution and laws of the country. This is the only conversation he has heard on the subject in the Governor's presence, and this is the substance of it.

This deponent having told all he knows in relation to the several subjects propounded in questions to him, as far as he is bound, further saith not.

ALEXANDER R. DEPEW.

The deposition of H. C. Gist, sworn, saith:

That he never was in the public arsenal in Frankfort; he has no knowledge of preparations of war or arms in the arsenal; he knows nothing of any persons being in the arsenal.

Q.—State any conversation you have had with A. R. Depew, in relation to the preparation of arms in the arsenal or any sounds there.

A.—I did state to Mr. Depew and others, but more in joke than earnest, that I had passed by the arsenal and had heard sounds there, and if he would go, probably he might hear the same; this was probably about two weeks ago; I was more for plagueing Mr. Depew than any thing else.

Q.—Do you know any thing of the removal and concealment of the papers of the court of appeals from the office where F. P. Blair kept them, say during the summer?

A.—I am told they have been removed, and I know where they are.

Q. By same—Are they in your possession? If not, where are they?

A.—They are not in my possession; they are not in the office, unless they have been placed there in a week or so, but where they are I will not say. He knows of no intention to take by force said papers from Blair; he intimated to Mr. Blair, in case of any attempt to take the papers from Blair, his willingness to assist in resisting the same, unless the person taking was authorised by law; he had offered himself to Mr. Blair to assist in defending him in possession of said papers; he lives near town. What he said to Blair, was after the order was made by the old court to take the papers from Blair, and he would have resisted said order. Mr. Blair said he thought there would be no necessity for any resistance.

Q. By Mr. Depew—Did you and myself go to the arsenal after night and listen?

A.—We did, and heard nothing.

Q.—Have you any arms? What are they? and would you have used them to resist the order of the old court to take the papers?

A.—I have guns and pistols, and always keep some loaded, and would have used them in resisting the order of the old court.

HENRY C. GIST.

The resolution recommended for the adoption of the house was then twice read. It was moved and seconded to amend said resolution by attaching thereto the following proviso:

Provided, however, That no citizen of this Commonwealth, either in his official or private capacity, shall attempt by force to rescue the papers now in the hands of F. P. Blair, the clerk of the new court of appeals.

And the question being taken upon adopting said proviso, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Spalding and Turner, were as follows:

YEAS—Messrs. John J. Allin, Barbee, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Perrin, Sanders, Spalding, Stephens, Tarlton, Thomas, Thomasson, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—32.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—58.

The question was then taken upon adopting the said resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Green and Haskin, were as follows, viz:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Lee, Logan, Marshall, Mayes, M'Connell, Morris, Napier, New, Nuttall, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Stephens, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, Wingate, A. White, Woodson and Yantis—65.

NAYS—Messrs. John J. Allin, Barbee, Chenowith, Coombs, Elliston, Fletcher, Fulton, Haskin, Lackey, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Perrin, Sanders, Spalding, Tarlton, Thomas, Wade, Ward, Wilcoxen and S. White—25.

Mr. B. Hardin then moved to attach thereto, by way of amendment, the following additional resolution:

Resolved further, That it is the deliberate opinion of this house, that the Governor did know of the preparation of arms made by F. P. Blair and Captain Bibb.

And then the house adjourned.

THURSDAY, DECEMBER 15, 1825.

Leave was given to bring in the following bills:

On the motion of Mr. Yantis—1. A bill for the benefit of Jonathan Taylor.

On the motion of Mr. Stephens—2. A bill for the benefit of the sheriff of Campbell county.

And on the motion of Mr. Hardin—3. A bill to give to the county of Spencer a county court in January next.

Messrs. Yantis, New and Stephens, were appointed a committee to prepare and bring in the first; Messrs. Stephens, Ward and

M'Millan, the second; and Messrs. Hardin, Thomasson and Green, the third.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Yantis—1. A bill for the benefit of Jonathan Taylor.

By Mr. Stephens—2. A bill for the benefit of the sheriff of Campbell county.

By Mr. Hardin—3. A bill to give to the county of Spencer a county court in January next.

By Mr. Underwood, from the committee for courts of justice—4. A bill granting further powers to the trustees of Louisville, and for other purposes.

5. A bill for the benefit of Ephraim Knight.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d and 4th bills having been dispensed with, the 1st, 3d and 4th bills were severally ordered to be engrossed and read a third time, and the second was committed to a select committee of Messrs. Walker, Harvey, Hansford and Stephens.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 3d and 4th bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Yantis carry the said bills to the Senate, and request their concurrence.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee for courts of justice have, according to order, had under consideration the petitions of Eleanor Josler; also, the petition of Sally Smith and others; also, the petition of Elizabeth Pickens and others, all said petitions praying for the passage of laws authorising the sale of lands owned by infants, and have come to the following resolution thereon, to wit:

Resolved, That the whole of said petitions be rejected.

Which being twice read, was concurred in.

Mr. Blackburn, from the select committee to whom was referred a bill to erect election precincts in Monroe county, reported the same with amendments; which being twice read, were concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read, "an act to establish election precincts in certain counties, and for other purposes."

Ordered, That Mr. Blackburn carry the said bill to the Senate, and request their concurrence.

Mr. Underwood, from the committee for courts of justice, to whom was referred a bill to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of an act approved December 24th, 1824, as provides for the appointment of a fourth Judge, reported the same with an amendment in lieu of the original bill.

The reading of the original bill was called for, and the same was read as follows, viz.

An act to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of an act approved December the 24th, 1824, as provides for the appointment of a fourth Judge.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the third section of an act entitled "an act to repeal the law organizing the court of appeals, and to reorganize a Court of Appeals," approved December the 24th, 1824, as creates the office of a fourth Judge of said Court of Appeals, be, and the same is hereby repealed.

§ 2. *Be it further enacted*, That so much of the first section of an act to regulate the salaries of the Judges of the Judges of the Court of Appeals, and for other purposes, approved January the 6th, 1825, as allows said Judges two thousand dollars per annum, each, be, and the same is hereby repealed; and the said Judges provided for by said section, shall hereafter each receive an annual salary of twelve hundred dollars, which shall be paid to them and their successors in office, quarter yearly, out of any money receivable in the public revenue.

The said amendment was then read as follows:

Strike out the whole of the original bill after the enacting clause, and in lieu thereof, insert the following:

That so much of the act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes," approved 6th January, 1825, as provides that the Chief Justice of Kentucky and the Associate Justices of the Supreme Court, who should thereafter be commissioned under the provisions of an act approved December 25th, 1824, entitled "an act to repeal thelaw organizing the Court of Appeals, and to re-organize a Court of Appeals," shall each receive an annual salary of two thousand dollars, to be paid to them respectively, quarter-yearly, out of the public Treasury, shall be, and the same is hereby repealed.

Sec. 2. *Be it further enacted*, That the Judges of the Court of Appeals shall hereafter receive an annual salary of twelve hundred dollars, payable quarter-yearly out of any money receivable for public revenue.

And the question being taken on concurring in the said amendment, it was decided in the affimative:

The yeas and nays being required thereon by Messrs. Sanders and Wade, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—60.

NAYS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—37.

Mr. Wade then moved further to amend said bill as amended, by attaching thereto the following as an additional section, viz:

Be it further enacted, The salary hereby provided, shall be paid to the Judges, or their successors in office, appointed under an act organizing and re-organizing the court of appeals, approved December the 24th, 1824.

And the question being taken on adopting the said amendment, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. Wade and Maupin, were as follows, viz:

YEAS—Messrs. John J. Allin, Barbee, Carter, Clay, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Mullens, Napier, Nuttall, Perrin, Porter, Samuel, Sanders, Spalding, Stephens, Tarlton, Thomas, Wade, Ward, Wilcoxen, Wingate and S. White—36.

NAYS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hansford, Hanson, Hardin, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—57.

The said bill as amended was then ordered to be engrossed and read a third time to-morrow.

A message from the Senate, by Mr. Chilton, their Secretary:

Mr. Speaker—The Senate disagree to a bill which originated in this house entitled "an act to add a part of Caldwell to Livingston county;" they have passed bills which originated in this house of the following titles: An act allowing justices of the peace a copy of the Digest of the Statutes of Kentucky, in certain cases; an act further to regulate the election precincts of Breckinridge county; an act to amend the law requiring clerks of courts to make out complete records in certain cases; an act to allow an additional constable to Henry county; an act to amend the law concerning the town of Columbus at the Iron Banks; an act to allow an ad-

ditional justice of the peace to the county of Washington; an act concerning the town of Bowlinggreen; an act to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth, and for other purposes," approved December 30, 1824; an act for the benefit of John Cottrell and others; an act giving seminaries of learning further time to list their lands for taxation; an act to legalize certain proceedings of the Ohio county court at their November term, 1825; an act to authorise publications in certain newspapers; an act for the appointment of trustees for the town of Pikeville, in Monroe county; an act to authorise the sale of a part of the public square in the town of Hartford; an act to change the time of holding the Muhlenberg county court; an act to establish an election precinct in the county of Shelby; an act to alter the times of holding certain circuit courts; an act further to regulate the Bank of Kentucky; an act further to regulate the collection of debts due this Commonwealth; an act for the benefit of John Moore and others; an act to authorise James Lindsey to build a dam across Green River; an act further to regulate the Jefferson Seminary; an act to authorise Narcissa to contract for her freedom; an act to change the sessions of the Lincoln and Casey circuit courts; an act to allow two additional justices of the peace to the county of Meade; an act to authorise James Howe to build a dam across Little Sandy river; an act to amend an act entitled "an act further to regulate the courts in the fourteenth judicial district," approved January 3, 1825; an act to establish an election precinct in the county of Meade, with amendments to the two latter bills; and they concur in a resolution from this house in relation to an amendment of the constitution of the United States, proposed by the State of Georgia; and have adopted a resolution and preamble, instructing our Senators and requesting our Representatives in Congress, to use their best exertions to procure an appropriation in aid of the funds of this State for the formation of an artificial road from Maysville to Lexington; also, have adopted a resolution reported by the joint committee appointed to report the condition of the treasury; in which amendments and resolutions they request the concurrence of this house.

And then he withdrew.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on the 14th instant, approve and sign the following enrolled bills which originated in the House of Representatives, viz:

An act to amend the acts relative to the Shelbyville and Louisville Turnpike Road Company; an act to add a part of Caldwell county to the county of Trigg, and for other purposes; an act supplemental to the act entitled "an act to remove the seat of justice of Oldham county," approved 9th December, 1825; an act

for the benefit of the widow and heirs of Thomas Blincoe, deceased; an act to establish an election precinct in the county of Clarke; an act to amend the act establishing the town of Covington at the mouth of Licking; an act supplemental to the act for the formation of Russell county.

And then he withdrew.

Ordered, That Mr. Allin inform the Senate thereof.

Mr. Green, from the select committee appointed for that purpose, reported a bill concerning the Kentucky Institution for the instruction of the deaf and dumb; which was received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill having been dispensed with, it was then moved and seconded to amend said bill by expunging therefrom the last section thereof, which was read as follows, viz:

Be it further enacted, That to enable said trustees to acquire more suitable buildings for the use of said Institution, to be located not more than one half mile from the town of Danville, the sum of three thousand dollars be, and the same is hereby appropriated to said Institution, and to be charged by the Auditor to the Literary Fund.

And the question being taken on agreeing to the proposed amendment, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Cosby and Wade, were as follows:

YEAS—Messrs. James Allen, Blackburn, Bruton, Clay, Chenowith, Coombs, Cosby, Daniel, Davis, Elliston, Evans, Fletcher, Ford, Fulton, Gibson, Grundy, Hall, Hansford, Hanson, Harvey, Hutchison, James, Lackey, Lee, Logan, Martin, Maupin, M'Clanahan, M'Cormas, M'Connell, M'Millan, Morris, Owsley, Reed, Skyles, Spalding, Sterrett, Thomas, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, Wingate, S. White and Yantis—47.

NAYS—Mr. Speaker, Messrs. John J. Allin, Bainbridge, Barbee, Breck, Breckinridge, Brown, Bruce, Carter, Cowan, Cox, Cunningham, Duke, Dunlap, Dyer, Farmer, Gordon, Green, Haskin, New, Nuttall, Owings, Payne, Perrin, Porter, Prince, Samuel, Sanders, Slaughter, Stephens, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Wade, Ward, E. Watkins, A. White and Woodson—42.

The said bill as amended was then ordered to be engrossed and read a third time to-morrow.

A message from the Senate, by Mr. Cockerill:

Mr. Speaker—The Senate have passed a bill which originated in this house, entitled "an act to alter the time of holding the Hart circuit and county courts, and to legalize the proceedings of the county courts of said county, and also to alter the time of holding the circuit and county courts of Edmondson, and to provide for running the lines of said county," with an amendment, in which they request the concurrence of this house.

And then he withdrew.

The message of the Governor, communicated to this house on yesterday, was taken up and read as follows, to wit:

Gentlemen of the House of Representatives:

Your sergeant at arms has handed me a paper which purports to be a copy of sundry resolutions adopted by your body, calling on me to explain certain passages and give proof of certain declarations, contained in my message of the 7th of last month. Although, in the manner of presenting those resolutions to me, and in the character and tenor of the resolutions themselves, I recognize nothing of that respect which is due from one department of the government to another, yet I readily waive all exceptions to the propriety or etiquette of your proceedings. In the resolutions, I will see only an honest desire of the representatives of the people to be informed upon subjects in relation to which they are ignorant, and in the manner of presenting them, only a laudable contempt of forms and ceremonies, which is highly becoming a republican body. I am the less disposed to take any exceptions to those appearances, because the occasion presents me with the means of developing more fully to the people of Kentucky, the dangers which surround their free institutions, and the sources from which they spring.

I am told in the preamble to your resolutions, that "no *new* causes of alarm and agitation, known to this house, have arisen *since* the last session of the Legislature," and in your first resolution I am called on "to communicate to this house, the particular causes of alarm and agitation, which have arisen since the last session of the Legislature." I did suppose, that in the specifications which followed the general declaration in my former message, the representatives of the people would have found sufficient causes of alarm and agitation, to save them from a display of their own apathy and an imputation upon the veracity of the Executive. But it seems I was mistaken. They see no new causes of alarm in the assumption of legislative power by the federal Judges; the conflict between two tribunals of our own State for supreme judicial power, excites in them no apprehensions, no agitations. Like the unconscious sleeper aroused from his slumbers by a kind friend, while flames surround him, they see not the fires which are fast consuming the temple of liberty in which they are protected. To attempt a second time to awaken them to a sense of the public danger, is almost a hopeless task. But as it is my principle never to despair of the Republic, and as it is possible they may yet be made to realize the portentous aspect of the times, I will not shrink from a more minute development of the new causes of alarm and agitation which threaten the peace of the country and the liberties of the people.

From your declaration, I must presume, that you are unacquainted with the rules adopted by the circuit and district Judges of the United States, for the regulation of their executions, or at least that you have not minutely examined their contents. To en-

able you to do so, I herewith transmit you a copy of them, as they have appeared in the newspapers.

The Judges whose names are signed to these rules, have denied that sales of property under execution upon a credit, as allowed by a statute of this State, are constitutional, because they destroy the obligation of contracts; yet these same Judges, in their 7th rule, provide for the sale of lands on a credit of three months, on executions issuing from *their* court.

Judge Trimble of that court, as well as the former Judges of our appellate court, decided that replevin laws, especially in their retrospective operation, are unconstitutional and void. Yet in the 9th rule, drawn by the same Judge, we find the enaction of a three months' retrospective replevin law, applying to all executions issuing from that court. If, therefore, the new doctrine be correct, the Judges of the federal court claim the power to impair or destroy the obligation of contracts at pleasure. In every view, they here claim a legislative power which is denied to the State Legislatures. It is the doctrine of the day, that the people have thought it unsafe to trust the power of allowing credit sales and replevins to their representatives; but if the principles and practice of these Judges be correct, they have vested this power in the hands of the federal Judges, who are wholly irresponsible for error of opinion or assumptions of undelegated power, especially to the people of the States. Is it indeed a fact, that a discretion on these points, has been given to the federal Judges, which is denied to the people's representatives? Is judicial less dangerous than legislative discretion? Is power more safe in the hands of those who acknowledge no responsibility for its unlimited exercise, than in the hands of those who are subject to the annual control of the people themselves?

It is another principle embraced in these rules, that the federal courts, by their order, may subject to execution, lands or any other species of property, although it may be exempt by the laws of the States. By this principle, the federal Judges may subject the lands of Virginia and Massachusetts to instant sale, for what they will bring in gold and silver, without appraisement or right of redemption, and thus overturn the fundamental policy of those States, which has been settled for ages. Indeed, in Kentucky, according to the principles assumed by the federal Judges, there is now no law obligatory on those courts, which subjects lands to sale for the payment of debts; but they are now sold by the marshal only in virtue and by authority of these rules of court. Is it a matter of indifference, that a power has sprung up in the States, independent of the people, which can thwart and overturn their settled practice and policy, from the earliest periods of their history?

But the unceremonious disposition which these rules make of the property of our good citizens, is not their most alarming feature. They seize upon their persons also, and hold their liberty at the disposition of two Judges. Their first section revives imprisonment for debt in this Commonwealth, against male and female debtors, and prescribes the mode and manner of confinement and release. The people of Kentucky flattered themselves, that by the acts of their representatives, they had forever banished this barbarous practice from their limits. But it has returned upon them in a manner as alarming as it was unexpected. It is impossible to limit the power here exercised. If they can confine a debtor within the prison bounds, they can cast him into close jail; if they can cast him into close jail, they can thrust him into a dungeon; if they can thrust him into a dungeon, they can confine him there for life; if they can confine him for life, they can direct him to be sold, with his wife and children, for the payment of the debt. The power over the liberty of the citizen debtor, is as unlimited as absolute despotism.

In the case of Sturges vs. Crowninshield, 4th Wheaton, page 200, the Supreme Court says: "The distinction between the obligation of a contract and the remedy given by the Legislature to enforce that obligation, has been taken at the bar and exists in the nature of things. Without impairing the obligation of the contract, the remedy may be certainly modified, as the wisdom of the nation shall direct. *Confinement of the debtor may be a punishment for not performing his contract, or may be allowed as a means of inducing him to perform it. But the State may refuse to inflict this punishment*, or may withhold this means, and leave the contract in full force. Imprisonment is no part of the contract, and simply to release the prisoner, does not impair its obligation."

It was the principle of 1798, that Congress itself could make nothing a crime and prescribe a punishment, except so far as the power was expressly delegated in the constitution, and that the power of declaring what is crime, and prescribing the penalty in all other cases, rests wholly with the State Legislatures. The Legislature of Kentucky has declared that the failure to pay a debt, shall be no crime within the limits of this State, punishable by imprisonment; but the Federal Judges, not Congress, declare, that the failure to pay a debt within the limits of Kentucky, shall be a crime, and shall be punished by imprisonment, to the extent of their jurisdiction. This is, according to the doctrine of the Supreme Court, taken in conjunction with the republican principles of 1798, a fearful encroachment upon the reserved rights of the States.

The principle involved in these rules, is the more alarming, because they were never published by the authority which enacted them. The laws which prescribe the extent to which the prop-

erty of the citizen shall be sold, and the time and manner of selling it, which create a new crime in this Commonwealth and prescribe the punishment, are engendered and enacted in the closet of the Judges, and simply entered on the rule-book of their clerk, to which few have access. But for the agency of others, the citizen might now have been seized and borne to jail by the marshal, in perfect ignorance of the law under which he was seized and the authority which enacted it. Can freemen sustain this principle? Can they tolerate, that Judges shall create crimes by unpublished laws, send them to prison by their secret orders, and punish them at will?

It is a fundamental principle of free government, that those on whom the measures of government operate, shall have power to hold responsible the public functionaries who adopt those measures. But how is it here? We have a code of execution laws, operating only within the State of Kentucky and upon her citizens, enacted by men who acknowledge responsibility only to the whole American people. Not one twentieth of those who are to judge them for their acts, feel or see their effects, if indeed they know of their existence. Every judicial district in the Union may have its distinct code, varying from all others according to the opinions or caprices of its judges, while the people on whom they operate, with whatever oppression, cannot change the law or punish the functionary who made it. The dependence of law-makers upon the people is totally lost, and in principle, these States might as well have submitted to the legislation of the British Parliament.

According to the theory of our government, it is the duty of the State authorities to provide all local laws and regulations required by the peculiar condition of the people in the several States, while it is the duty of the general government, to provide only for the general welfare. But here we have federal authorities making local regulations and legislating for Kentucky only, thereby assuming those powers, for the exercise of which, the State governments were preserved, and which they alone are competent to exercise. The theory of the government, as well as its practice heretofore, is thus in part subverted, and we are called upon to sanction a principle, worse, if possible, than entire consolidation.

I am one of those who deny that Congress itself has the power to pass an execution law, overturning or impairing the systems of policy which have been or may be established in the several States. I find no delegation of such a power in the constitution. Nor do I believe it can be justly implied from any direct grant of power in that instrument. It is impossible, that the planter of Virginia ever intended to confer on the farmer of Massachusetts, the power to direct that his lands or slaves should be sold under

execution, or that the latter ever intended to concede such a power over his cattle and farm, to the planter of Virginia. The sugar and cotton planter of Louisiana and Georgia, is badly qualified to decide what system of execution laws will suit the grazier and farmer of Vermont and New-Hampshire, and still less is the latter qualified to give laws to the former. These are things which were intended to be left to the local regulations of the several States, each for itself, without the interference of Congress, or any other of the federal authorities.

So far as the constitution of the United States operates to restrain the legislation of the States on these subjects, it had in view two leading objects; one to secure foreigners and citizens of other States from partial legislation, which should deprive them of remedies allowed to citizens, and the other, to secure all, citizens as well as foreigners, from the violation, by the State authorities, of certain great principles. To effect these ends, it delegated to the general government, judicial powers, more extensive than its legislative, and gave to the federal judges power to adjudicate upon State laws. But it could not have been the object of the constitution, to secure to foreigners or citizens of other States, *greater rights or swifter remedies* than might be constitutionally provided by the States for their own citizens. When the foreigner or citizen of another State is no more delayed or obstructed in the prosecution of his rights, than the citizen is, without a violation of the constitution, its great end and object is attained. But how is it in Kentucky? The foreigner, citizen of another State, and the United States' Bank, are allowed more energetic remedies than our citizens. A citizen cannot imprison his debtor, and no one contends that the denial of this power to him is unconstitutional. The foreigner and the Bank may imprison their debtors, and thereby have a means of coercing payment, constitutionally refused to the citizen. Herein is the object of the constitution transcended, and it is made to be more careful of the rights of foreigners than of citizens, for whose benefit and happiness it was formed. Congress has not transcended its power in this respect; but the judiciary of the United States, instead of confining the legislation of the States to the constitutional boundary, have wholly disregarded it and prescribed remedies themselves.

But this power is pretended to be derived from acts of Congress. That you may have a fair view of the ground on which this pretence is founded, I here copy so much of certain acts of Congress as have been made its basis.

Act of 29th September, 1790: "Sec. 2. Be it further enacted, that until farther provision shall be made, and except where by this act or other statutes of the United States, is otherwise provided, *the forms of writs and executions*, except their style, and

modes of process and rates of fees, except fees to judges in the circuit and district courts, in suits of common law, shall be the same in each State respectively, as are now used or allowed in the supreme courts of the same; and the form and modes of proceeding in causes of equity, and of admiralty and maritime jurisdiction, shall be according to the course of the civil law, and the rates of fees the same as are or were last allowed by the States respectively, in the courts exercising supreme jurisdiction in such causes: Provided, that on judgments in any of the cases aforesaid, where different kinds of executions are issuable in succession, *a capias ad satisfaciendum* being one, the plaintiff shall have his election to take out *a capias ad satisfaciendum* in the first instance, *and be at liberty to pursue the same, until a tender of the debt and costs, in gold and silver, shall be made.*"

"Sec. 3d. This act shall continue in force until the end of the next session of Congress, and no longer." 2d vol. Laws U. States, page 72.

By an act of May 26th, 1790, Ibid 104, the above act was continued in force until the end of the succeeding session; and by an act of February 18th, 1791, Ibid 193, it was continued in force until the end of the following session. It has never been revived. The act of May 8th, 1792, contains the only provision on this subject, now remaining in force. 2, L. U. S. 299. It is in these words:

"Sec 2d. Be it enacted, That the *forms of writs, executions and other process*, except their style, *and the forms and modes of proceeding in suits*, in those of common law, shall be the same as are now used in said courts respectively, in pursuance of an act entitled "an act to regulate processes in the courts of the United States." in those of equity and admiralty jurisdiction, according to the principles and usages which belong to the courts of equity and courts of admiralty, respectively, as contradistinguished from courts of common law, except so far as may have been provided by "an act to regulate processes in the courts of the U. S." &c. "*subject, however, to such alterations, and additions, as the said courts respectively shall, in their discretion, deem expedient, or to such regulations as the supreme court of the United States shall think proper, from time to time, by rule, to prescribe to any circuit or district court, concerning the same:* Provided, that on judgments in any of the cases aforesaid, where different kinds of executions are issuable in succession, *a capias ad satisfaciendum* being one, the plaintiff shall have his election to take out *a capias ad satisfaciendum* in the first instance."

By a subsequent clause of this act, the last act continuing in force the process act before cited, was expressly repealed; so that all the effect which the act of September, 1789, now has, is in the form it may have given to the writs and executions and modes of proceeding in suits, which were adopted by the above section.

In this part of the Union at least, these provisions have ever been held to have reference only to the forms of writs and executions, and not to have any concern with the time or manner of levying them, or the property which should be taken, or the manner in which it should be sold; but for all these the federal courts looked into State laws and were governed by their provisions. But in the late war of banks and merchants upon the laws of Kentucky, three cases were adjourned from the circuit court for the Kentucky District, upon a division in the court, to the supreme court of the United States. In the case of Wayman and Clark *vs.* Southard and Starr, the constitutionality of our replevin laws was assailed; in the case of the Bank of the United States *vs.* January, an attack was made upon our law abolishing imprisonment for debt; in the case of the Bank of the United States *vs.* Halstead and Company, a blow was levelled at our valuation laws; and in all, the position was taken that none of our State execution laws are applicable to executions issuing from the federal courts, or obligatory upon the Marshal. The supreme court would hear argument only on this last point, which they decided in favor of the merchants and the bank. In their opinion they assert, that the acts of Congress which I have cited, confer on the federal courts, each within its district, the power to declare in what manner and upon what subjects their executions shall be levied, and make all needful rules to carry their own decisions into complete effect. It is under the authority of this decision, that the circuit court for the Kentucky District has framed the code of execution laws which I have submitted to your inspection.

In putting this construction upon early acts of Congress, it appears to me, that the supreme court have obviously mistaken *form* for *substance*. They have mistaken the discretion given them to change the forms of their writs and executions, for a power to change the execution laws of the States, and direct, in the most unlimited manner, on what subjects their own executions should be levied. But the alarming nature and extent of the power claimed by the federal judiciary under these provisions, may be illustrated by its actual exercise by the federal judges in Kentucky. You will perceive that it is direct law-making for local purposes; that to the extent of the jurisdiction of the federal courts, it entirely supersedes State legislation; that it creates a crime unknown to the laws of the State and prescribes a punishment; that it places the liberty of the delinquent debtor who is sued in the federal courts, at the mercy of two Judges; that it is the union of legislative, judicial and even executive power, and may be abused for purposes of vengeance upon hated individuals; that it is subversive of State rights, dangerous to personal liberty and a direct infraction of the fundamental principles of our government; that Congress possess no such power themselves, or if they do, cannot

delegate it to the judiciary, without overturning the constitution; and that it ought to be opposed by the most energetic means consistent with the peace of the country.

It seems to me, that he who can see no cause of alarm in all this, is ready to surrender our republican representative government, and submit to despotic power both in principle and practice.

But had we no cause of alarm in the acts of our federal functionaries, there appears to me to exist in our own bosom enough to have shielded me from the imputation in your preamble. Since the last session of the legislature, the supreme judicial power of this State, has been claimed and still is, by two sets of men, each supported by numerous partizans. To enforce their several claims, would at once bring one part of society in conflict with another and produce civil war. Do the representatives of the people, whatever may be their political faith, see no new cause of alarm in this? Do they view with entire apathy, a state of things, which it requires but a spark to kindle into civil strife and make our peaceful streets run blood? I could not feel thus cold and indifferent when the peace of my country was at stake, and therefore did I recommend to you a compromise of our fatal dissentions, in my former message. If the representatives of the people view that recommendation as springing rather from a hostile than a pacific spirit, they mistake the feelings and do injustice to the motives by which it was dictated. If our present unhappy divisions shall end in mobs and civil broils, the first blow shall not be struck by me. It cannot be expected that our independent citizens will submit, on either side, to what they think lawless power; nor is it improbable, that when assailed by a posse for the purpose of executing the mandates of an illegal court, they will resist and call on their government for protection. To quell such disturbances, and restore and preserve the peace of the country, is the duty of the Executive, and you may rest assured that it will be performed. But to avoid these scenes which must make a patriot weep, is the first desire of my heart. Although the Olive Branch of peace has been once indignantly spurned, as if it had been the torch of war, I hold it out again. I urge the representatives of the people to unite and request all who claim the supreme judicial power to resign their pretensions, if not for their own peace, at least for the tranquility of the country. I would counsel them, after such resignation, to repeal the laws of last session, or modify them in such a manner as might seem constitutional and expedient to all parties; and I repeat the pledge to give them a court which shall be acceptable to them and in a moment allay the ferment of the country. But I have no encouragement to hope for compromise or peace. It seems that nothing will satisfy zealous partizans but entire triumph or complete prostration. Then be it so. I have done all for peace which duty demanded, and on their heads, who

continue the strife which they might end with a word, be the awful responsibility. All I can do is to hope, that they will have as little of alarm in the future as they see in the past.

In your second resolution, the Governor is requested to inform this house, whether "the Branches of the Bank of the United States, located in this State, have purchased any real estate within this State, other than that which they were compelled to receive in discharge of debts previously due those institutions; and if they, or either of them, have, to inform this house in what part of the State the property so purchased is situated, and from whom purchased, and whether the said Branches, or either of them, have failed to pay taxes upon any real estate they possess in this State."

The House of Representatives have the right of appointing committees, with power to send for persons and papers, and if it be suspected by its members, that the Bank of the United States has violated its charter by purchasing other real property than such as she has purchased of her debtors, I would recommend a resort to this power, for the purpose of a full investigation of the fact. For myself, I have deemed it wholly immaterial to the State, by what particular mode of purchase the Bank obtained the real property which she possesses. Whether she took it of her debtors, or purchased it in open market at the highest bid, makes no difference in the effect which the ownership produces on the rights and interests of the State. I have taken some pains to ascertain the amount of property owned by the Bank in this State, and the following is about the result:

Fayette County.	
Ten lots in Lexington, valued at	$25,550
Six tracts of land, ditto,	17,500
Franklin County.	
Five lots in Frankfort, valued at	36,500
Two tracts of land, ditto,	1,808
Scott County.	
Thirteen lots in Georgetown, valued at	20,550
Two tracts of land, ditto,	5,000
Jefferson County.	
Nine lots and parts of lots in Louisville valued at	32,100
Thirteen lots in Transylvania, ditto,	1,800
Five tracts and parts of tracts of land, ditto,	24,125
Gallatin County.	
Three tracts of land, valued at	5,900
Owen County.	
One tract of land, valued at	540
Caldwell County.	
One tract of land, valued at	2,250

Campbell County.	
Two tracts of land, valued at	3,410
Hardin County.	
One tract of land, valued at	2,015
Grant County.	
One tract of land, valued at	1,300
Allen County.	
One tract of land, valued at	300
Logan County.	
One tract of land valued at	1,573
Boone County.	
Three tracts of land, valued at	1,926
Two lots in Burlington, ditto,	900

This statement may not be exact; but it presents very nearly the amount of real property now held in this State by the Bank of the United States, in absolute right. How much more she holds by mortgages and trusts, the titles to which have not been made complete or the possession delivered to the Bank, it would be difficult to ascertain; but the amount is, doubtless, very considerable.

Whether the bank took this immense amount of property in payment of debts, or purchased it with gold or silver, the violation of the rights of the State, is the same; the foreign influence planted in her bosom, is the same; the danger to the purity of her elections and of a foreign feeling in her Legislature, is the same. I scarcely need observe, that by the constitution of the United States, Congress themselves cannot purchase lands within the States, even for forts and arsenals, without the consent of the State Legislatures, much less can that body delegate such a power to its agents or corporations. Yet we see a corporation, the constitutionality of which is maintained solely on the ground, that it is a necessary agent of the general government, acquiring immense possessions of houses, lots and lands, in the State of Kentucky, and the representatives of the people, instead of casting about to check this evil, which was intended to be guarded against by the constitution, employ their time in querulously asking the Executive, whether the bank has purchased any real estate in this State, which she was not compelled to receive in payment of debts previously due, as if it was their business rather to see that the bank does not violate her charter, than that she does not swallow up the rights of their State and the liberties of the people.

The acts taxing the branches of the United States' Bank, passed in 1818 and 1819. In December of the latter year, our Court of Appeals gave their decision, relinquishing the sovereign taxing power of the State, at the nod of the Supreme Court. I am not aware that these branches then owned any real property in the State, or paid a cent for the support of government. They

employed, in this State, a capital estimated at $1,600,000, which was exempt from every public burthen, while the stockholders of the Bank of Kentucky paid thirty-seven and a half cents upon every share of $100 in that bank. The United States' Bank now pays the regular revenue tax on about $185.000 worth of real property, amounting in all to about $116 in Commonwealth's Bank paper. A tax on her stock employed in this State, equal to that exacted from our own citizens on the like amount of property, would have yielded about $1,000 in paper, and a tax equal to that paid by the stockholders of the Bank of Kentucky, would have yielded about $6,000. Nor does she pay one cent for county purposes, although she holds much of the most valuable property in several counties, because the county levy is laid upon the poll, not upon property.

The principle is not perceived by which the State has any more right to tax the real property of the Bank, than the stock she employs within our borders. Indeed, her real property is but a portion of her stock or capital, and it may be anticipated, that when she has acquired sufficient strength and influence, she will resist the right of the State to tax her stock in this shape, as strenuously and as successfully as she did the right to tax it when employed solely in the legitimate business of banking.

In your third resolution, the Governor is requested "to communicate to this house, any evidence he may possess, to establish the charge contained in his late message, that the Branch Banks of the United States, located in this State, have, for a series of years, carried on a systematic attack upon the legislative power of the State, with a view to render themselves independent of its authority, and to state the cases in which those branches, or their friends, interposed to procure the vacation of the statutes of the State, upon the ground of their unconstitutionality."

I am as much surprised at a call for this evidence, as I was at the declaration in your preamble, that you see no new cause of alarm in the inroads of federal power, and the condition of our own judiciary; because it is a part of the history of the country, and can scarcely be unknown to the least intelligent of our citizens. But presuming that you wish it embodied in a narrow compass, to aid you in your proceedings relative to those institutions, I shall proceed to lay it before you, in obedience to your summons through your sergeant at arms.

In 1818, the Legislature of Kentucky passed an act imposing a tax of $4,000 on each of the United States' Branch Banks located in this State, which might be discharged by the payment of fifty cents on each share of stock employed in those institutions, and imposed penalties on the officers of the banks, for a refusal to pay the tax. They refused, and actions were commenced in the General Court, by the attorney-general, for the recovery of the penal-

ties. The Bank, by their counsel, *W. T. Barry* and *M. D. Hardin*, contested the constitutionality of the legislative act. The suits were taken to the Court of Appeals, where the counsel for the bank, *Robert Wickliffe* and *M. D. Hardin*, occupied the same ground. In the mean time, the Legislature, in January 1819, passed another act imposing a tax of $60,000 on each of the branch banks, and providing for its collection in a summary way, by the sergeant of the Court of Appeals. The Bank, by her counsel, *Robert Wickliffe*, applied to the Federal Judges in the State, and procured an injunction to stay the collection of this tax. The decision of the Supreme Court and the submission of our late Court of Appeals, which took place in December 1819, rendered all further attempts to collect a tax from these institutions, or by such means to drive them from the State, entirely hopeless.

Here we see two instances in which those branches "interposed to procure the vacation of the statutes of the State, on the ground of their unconstitutionality," and they were completely successful. But it was not the statutes only which were laid prostrate. The sovereign power of the State, reserved in the constitution, in a manner wholly unlimited, to levy a tax upon persons, property, capital or business within its limits, was subverted, and our late Court of Appeals acquiesced in the subversion, although it was contrary to their *own sense of constitutionality and right*. The banks, therefore, triumphed, not over our statutes merely, but over the rights of the State and the constitution of the country. The door is now open to the Supreme Court to withdraw any other subject from State taxation, when, by construction, they can show that the taxing power of the State may be so used as to embarrass the general government or its agents.

But this not the whole evidence. The branches, or their friends, have had the chief interest and agency in overturning the statutes in our State, passed for the relief of the people, by a temporary suspension of the collection of the debts. The branches were located in this State, in 1817. The earliest attack upon replevin laws that I find in our annals, was in 1820, by *Robert Wickliffe*, in several cases in the Circuit Court of the United States for the Kentucky district. Judges Todd and Trimble then sustained their constitutionality. The following is extracted from the opinion of the court, delivered in those cases:

"If the act [the endorsement law] required the plaintiff to endorse that he would receive notes on the Bank of Kentucky or its branches, we would not hesitate to consider it an inhibited tender law, and pronounce it so far void. But the provision in relation to the endorsement is not mandatory, but permissive—he may take it at his election. If he makes it, we cannot say that it is, as to him, any more a tender law than the writ of *elegit*, which is

given by the laws of most, if not all the States; and which never has been thought objectionable. If the plaintiff does not elect to make endorsement, the law substantially gives the defendant a right to replevy for two years. Whatever might have been our impressions as to the constitutionality of replevin laws, if it were a matter of the first impression, *it is too late, after the States have been in the practice of passing them ever since the adoption of the constitution*, WITHOUT OBJECTION, now to pronounce them void upon constitutional grounds, unless it were a very clear case."

But on the establishment of our late execution system, the attack was renewed, both in our own and in the Federal Courts. In our own courts, *Robert Wickliffe*, in the case of Lapsley *vs.* Brashear, both in the court below and the Court of Appeals, and in the case of Blair *vs.* Williams in the latter court, assailed the constitutionality of our replevin laws, and was successful. In the Federal Court, in the case of Wayman and Clark *vs.* Southard and Starr, was also assailed the constitutionality of our replevin laws; and at the same time, *Henry Clay*, in the case of the United States' Bank *vs.* January, called in question our statute abolishing imprisonment for debt; and in the case of the same Bank of the United States *vs.* Halstead & Co. attacked the constitutionality of our valuation laws. In all these three cases, the court was divided, *Judge Todd* affirming the validity of the State laws, and *Judge Trimble*, who had seen new lights since 1820, denying it, and they were all adjourned to the Supreme Court of the United States.

The Bank of the United States and the merchants of Philadelphia combined together and made common cause in the attacks now made in that court upon at least three statutes of Kentucky, which stood in the path of their interests. The counsel which appeared, were Messrs. *Sergeant* and *Cheves* of Philadelphia, two of the most eminent lawyers in the nation; the latter of whom had been President of the Bank of the United States. No counsel appeared in behalf of the defendants; but Messrs. *Bibb* and *Monroe* volunteered in behalf of the laws of the State. Messrs. *Sergeant* and *Cheves* informed the counsel for the State, that they were employed by the Bank of the United States to appear as well in the case of Wayman and Clark *vs.* Southard and Starr, as in the two Bank cases; and that the merchants of Philadelphia were the allies of the Bank in the war upon the legislative power of Kentucky, is proved by the following extract of a letter from a mercantile house in that city to their friend in this State, written in June last:

"Ourselves, with other merchants of Philadelphia, paid $500 for the purpose of having this question settled by the Supreme Court of the United States, which was done last winter, and the decision no doubt made known to your court and the officers acting under its authority. It declares, that the *State laws* (relative

to executions in the United States Court) are not applicable," &c.

One ground assumed by the counsel for the Bank and the merchants in the case of Wayman and Clark, was, that all the statutes of Kentucky which authorise a defendant to give a replevin bond in satisfaction of a judgment or execution, are unconstitutional and void. In the case of the Bank of the United States *vs.* Halstead & Co. they contended, that the statutes of Kentucky requiring that certain property taken in execution shall not be sold unless it bring three fourths of its value, is repugnant to the constitution of the United States and not binding. In both these cases, as well as in that of the Bank of the United States *vs.* January, they contended, that none of these laws, nor the act abolishing imprisonment for debt, nor any other statutes of Kentucky, are applicable to executions issuing from the federal courts or binding upon the marshal.

The case of Wayman and Clark *vs.* Southard and Starr stood first on the docket; and when the argument had somewhat progressed in relation to the applicability of the State laws, the court informed the counsel that they would hear them only on that point, which might be argued in reference to the three cases. No other point was argued, and by the decision of this in favor of the Bank and the merchants, all the three cases were swept from the docket.

I presume that the House of Representatives will not call on me for evidence to prove that *Robert Wickliffe*, *Henry Clay*, *John Sergeant* and *Langdon Cheves* are friends of the United States' Bank. Their public acts and the stations they have held, settle this matter, I believe, beyond a doubt or a cavil. In the narrative I have given you, it will be seen, that there is not a single case in which the constitutionality of our statutes has been assailed, in which at least one of these men, first or last, has not had a direct agency.

This is the evidence that the Bank herself, in some cases, in others, her friends, have, for a series of years, carried on a systematic attack upon the legislative power of the State.

The *view* with which this war was prosecuted, is best proved by the end attained. By her success in the tax cases, the Bank rendered herself independent of the taxing power of the State. By the decision of the supreme court, that she may bring all her actions in the federal courts, and that in those courts she shall not be subject to the execution laws of the States, she is rendered independent of all State legislation over her contracts. Indeed, I may ask in what point the legislative power of the States can touch this institution or its branches. If there be any, it must be found out by the superior wisdom of the House of Representatives. To me, they appear as dangerous aristocracies in the

bosom of our State, independent of its laws and stronger than its government.

In your fourth resolution the Governor is requested "to communicate to this house the evidence in his possession, proving that the supreme court of the United States have declared, or in any case decided, that the federal courts had a right to make execution laws, for the regulation of their own proceedings, without asking the sanction of the people's representatives either in the State or General Government."

All I have to say in relation to this point, you will find in my reply to your first resolution.

In your fifth resolution the Governor is requested "to communicate to this house, any evidence he may possess, to establish the charge contained in his message, that the Bank of the United States had controlled many of our citizens, as their tenants, or any one of them, and the name of the individual or individuals so controlled, in the exercise of their right of suffrage; and also to inform this house, as accurately as practicable, of the number of the officers of the branches of that institution, located in this State, as well as the number and names of their tenantry and dependants, and the evidence of their being dependants."

I might answer the first part of this resolution by a direct denial that my message contained any such charge as is therein stated. This is the language of the message:

"These institutions, located in our bosom, owning a considerable portion of our soil, *controlling many of our citizens, as their tenants, influencing multitudes by the ties of interest*, voting through their *numerous officers and dependants in all our elections*, and holding in their hands the means of acquiring almost unlimited power, have rendered themselves irresponsible to our government and defy its authority."

Is there one statement in this sentence which is not notoriously true? Do not these branches control many of our citizens as their tenants? Do they not vote through their numerous officers and dependants in all our elections? But the charge of controlling many of our citizens as tenants, is not extended by me to the exercise of their right of suffrage, as your resolution makes it. That was an inference of your own, and was doubtless suggested to the author of the resolutions by his own knowledge of its justice.

The Bank of the United States holds in this State fifty-two town lots and twenty-nine farms and tracts of land, large portions of which are tenanted. It is probable she holds mortgages and other liens upon as much more real property, from much of which the possessors might be driven at her will.

It requires no *evidence* to prove that the condition of a tenant is one of dependance, in a greater or less degree. The rich ten-

ant, who can shift his residence at will and defy the power of his landlord without materially injuring his own interest, scarcely feels the influence of his situation; but the poor tenant with a wife and children around him, who sees no refuge if driven from his present residence, will sacrifice much to avoid displeasing his landlord. More dependant still is the condition of the mortgagor, whom misfortune has deprived of the means of discharging his debt, and who continues to hold at the will of his mortgagee, with the lingering hope that protracted indulgence will enable him to redeem his pledged possessions. I have been informed, that some who stood in one or both of these relations to the Bank of the United States, avowed to their friends at the last election, that they voted contrary to their opinions, lest, perchance, they and their families should be driven from homes which they had improved and which were endeared to them by all the fond recollections of past years. I would not add to the mortification a citizen must feel in finding himself in a situation where the feelings of the man overcome the independence of the patriot, by publishing his name to the world, even at the request of the House of Representatives. If you desire to expose these men to the vengeance they dread, and add calamity and disgrace to their present misfortunes, it is doubtless in your power to extract their names by the usual and convenient resort to a committee with power to send for persons and papers. That the fact exists I am not permitted to doubt, and it seems to me, the knowledge of its existence is sufficient for all purposes of legislation towards the Branch Banks, and that extorting the names of individuals can only gratify a wanton curiosity or satiate a cruel vengeance. You will, therefore, excuse me for declining to comply with this part of your request, not because I am restrained by any "cabinet secret," but because I deem it inhuman and improper.

Nor have I taken the trouble to enquire minutely how numerous are the tenantry of the Bank or what are their names. That she has a numerous tenantry may be inferred from the extent of her possessions, and by a little inquiry it might doubtless be made to appear, that a large portion of your honorable body, sleep under her roofs and contribute to the payment of her rents; nor is it improbable, that those whom you have declared to be the judges of the court of appeals, hold their sessions in one of her houses and issue their pretended mandates from her walls.

Nor am I able to give you the names of the *dependants* of the bank. You well know, that institutions which wield the capital and the business of these branches, must necessarily have many who are dependant on them for their subsistence, in whole or in part; many who are dependant for their favors in the extension of loans and discounts; many who are dependant for indulgence

on existing debts. Indeed, the cords by which our citizens are held dependant on those institutions, are as numerous as their transactions, and as ramified as their business. Each of these cords twines around the heart of one or more citizens, who, in a greater or less degree, feel their dependance. But to trace them through society, and develop all their power upon every citizen, who, through the avenues of hope and interest, feels their influence, would require more than all your committees, with more than all their powers. I trust you will excuse me for not doing that which is impracticable.

However, it is in my power to give you the names of the officers of the Branch Bank at Lexington, and among them you may probably find some of their dependants. The officers are, Charles Wilkins, President; James Harper, Cashier; Isaac Bell, Clerk; Matthew T. Scott, Special Agent; W. Mentelle, Teller; William Morton, William Leavy, Samuel Trotter, Richard Higgins, W. W. Worsley, B. W. Dudley and J. C. Richardson, jun. Directors. I am informed, that every one of these gentlemen, except Mr. Mentelle, who is an alien Frenchman, voted at the last election for *Robert Wickliffe* as Senator, *Robert J. Breckinridge*, *Henry C. Payne* and *James True*, as Representatives; and that the friends and dependants of the bank generally, voted for the same gentlemen. It might be uncharitable to suppose that the sensitiveness of those who have been elected to your house by the votes of the officers of this very bank, their friends and dependants, could have had any influence in producing these resolutions, which seem to question notorious facts, and ask evidence of that which nobody doubts.

From information recently received, and which is believed to be correct, it appears that the United States' Bank holds in Jefferson county and in the town of Louisville, real property, by mortgages and conveyance, of the value of $232,100. That James Hughes is President of the Branch of the United States' Bank at Louisville; Edward Shippen, Cashier; George Gwathmey, Teller; Alfred Thruston, Clerk; James R. Goring, Porter; James A. Pearce, John S. Sneed, John I. Jacob, Benjamin Lawrence, James M. Clendennin, William Pope, Horace B. Hill and William L. Thompson, Directors, all of whom (except the President, who was absent) voted for Taylor, Brown and Thomasson as Representatives at the last election.

I take this occasion to say a few words in relation to the former Judges of the Court of Appeals. It seems, they understand my former message as insinuating, that they had acted and decided under the influence of the United States' Bank. I merely said, that the Branches of the United States' Bank or their friends, had attacked our laws before them and been completely triumphant. The inference, that in deciding in favor of the principles advanc-

ed by the Bank, they acted under its influence, is drawn, not by me, but by their friends and themselves, who best know how far it is just. It surely does not necessarily follow, that because a court decides in favor of one litigant in opposition to another, they are therefore under the influence of the successful party. But where a court once decides in favor of a weak party against a strong one, and afterwards, at the instance of able counsel, reverse that decision and give judgment against the weak, there is at least room for suspicion, and the motives which influenced the Judges, require explanation. Such a case exists in relation to the former Judges of our Court of Appeals. In the year 1818 or 1819, the Bank of the United States brought two suits on notes assigned to her, one against Joshua Norvell and the other against Joshua Norton, in the Fayette circuit court, Judge Mills presiding. After a full argument, Judge Mills delivered a written opinion in the case of Norvell, in which he came to the conclusion "*that the bank was not permitted to purchase the note in question*," because no such power was granted in her charter. This decision applied to both the cases before the court. In the case of Norton an appeal was taken, and in the case of Norvell, *Robert Wickliffe*, as counsel for the bank, applied to the Court of Appeals, then consisting of Judges *Boyle*, *Owsley* and *Rowan*, for a *supersedeas*. "After *much consideration*," says A. K. Marshall, the Reporter, "*the court overruled the motion.*" *Hence it is to be inferred they approved the decision of Judge Mills.* This decision was not lightly given. They had Judge Mills' written opinion before them, and they confirmed it "*after much consideration.*" The appeal in Norton's case, which depended on precisely the same point, remained upon the docket of the court until 1821. In the mean time, Judge Mills had been promoted from the Circuit Court to the Court of Appeals. *Robert Wickliffe* and *Henry Clay* argued the appeal for the bank, and lo, Judges *Boyle*, *Owsley* and *Mills*, all concur in reversing the decision of the same Judge *Mills* in the circuit court, as well as the confirmation thereof in the Court of Appeals, by Judges *Boyle* and *Owsley*, "after much consideration," and unanimously came to the conclusion, that "*the bank had a right to purchase the note on Norton*," because she was not prohibited by her charter! Afterwards, a writ of error was sued out in the name of Norvell, which was abated by his death.

Here was a wheeling to the right about in solid column. What "*influence*" induced these men to change an opinion which they had formed "after *much consideration*," I know not; but I know that *Henry Clay* and *Robert Wickliffe* argued the case, and that the last decision was in conformity with the wishes and interests of the United States' Bank.

Judge *Mills'* opinion may be found at length in Marshall's Reports, 2d vol. page 101 to 106, and the opinion of *Boyle*, *Owsley*

and *Mills*, reversing that opinion, in 3d Marshall, page 422 to 429. I recommend them to your careful perusal, that you may see how ingenious the new lights of late years make men, in proving that their former opinions were absurd and ridiculous.

In your sixth resolution, the Governor is requested "to inform this house of the mode deemed most advisable in the opinion of the Executive, to refuse obedience to the decrees and mandates of the Supreme Court of the United States, considered erroneous and unconstitutional, with references to the particular decisions and mandates alluded to, and whether in the opinion of the Executive, it may be advisable to call forth the physical power of the State, to resist the execution of the decisions of the court, or in what manner the mandates of said court should be met by disobedience."

As I recommended no species of resistance to the decisions of the Supreme Court, in my former message, I must presume, from the tenor of this resolution, that the House of Representatives have themselves determined on such resistance, and wish the opinion of the Executive as to the most effectual mode in which their patriotism and devotion to the rights of their State, can be displayed. If such be the fact, I would counsel them to restrain their ardor and try, yet a little while, the pacific measure of an application to Congress, which I recommended in my former message. But if a majority of the people's representatives, actuated by a phrenzied zeal for the rights of their State, are determined to expel the United States' Branch Banks, to defend honest occupants against the wrongs inflicted under the decision of the Supreme Court, and protect our citizens from seizure and imprisonment by virtue of the Rules of the Federal Court, even by arraying the physical force of the country, then I say, in their own wisdom may they look for the "most advisable way" of doing it, and on their own heads be the responsibility.

But if it was intended in this resolution, to call in question the principles advanced by me, that the States have a right to refuse obedience to the unconstitutional mandates of the Supreme Court, and in cases of extremity, resist encroachments by the general government, upon their rights and the liberties of the people, then am I ready to vindicate and maintain them in the face of my country. For this purpose, I shall enter into no prolix argument of my own, but simply call your attention back to those forgotten documents and abandoned principles, which were the platform on which the republican party rallied, fought and conquered, in 1798–9 and 1800. It was my happiness, in the first of those years, to be a member of the Legislature of Kentucky, in which I met and acted with that revered statesman, *John Breckinridge*—a man who scarcely has his shadow in the present councils of our State. He laid before the House of Representatives a series of resolu-

tions, not to harrass the feelings and impeach the integrity of Governor Garrard, who, in his message, had complained in strong terms of the usurpations and encroachments of federal authorities, but to declare the fundamental principles of this Union, and protest against their violation. The first and second of these resolutions read as follows:

"*Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a constitution for the United States and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definitive powers, reserving, each State to itself, the residuary mass of right to their own self government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each State acceded, as a State, and as an integral party, its co-States forming as to itself, the other party; that the government created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

2d. "*Resolved*, That the constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the constitution having also declared, "that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore, also the same act of Congress, passed on the 14th day of July, 1768, and entitled "an act in addition to the act entitled an act for the punishment of certain crimes against the United States," as also the act passed by them on the 27th day of June, 1798, entitled "an act to punish frauds committed on the Bank of the United States," (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the constitution) are altogether void and of no force, and that the power to create, define and punish such other crimes, is reserved, and of right appertains solely and exclusively to the respective States, each within its own territory."

And in relation to the alien and sedition laws, which successive resolutions declared to be an exercise by Congress of undelegated

authority, and wholly unconstitutional and void, the 9th resolution contains this emphatic declaration:

"This Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited power, in no man or body of men on earth."

These principles and this declaration, were then sanctioned by the following men, whose names stand recorded in their favor upon the Journals, viz: Adams, Beatty, Boswell, Breckinridge, Blane, Ballard, Buckner, Clay, Cassidy, Collins, Clarke, Carr, Caldwell, Desha, Duval, Dougherty, C. Ewing, R. Ewing, Fishback, Garrard, Grant, Grubs, Grundy, Hickman, Johnson, B. Logan, J. Logan, Morehead, Maulding, Mitchell, Macgregor, Mountjoy, Meriwether, Murrell, Pemberton, Parker, Purviance, Parks, Smith, Slaughter, Stewart, Thomas, Vawter and Whitley. Yeas 44.

Three members only voted in the negative, and I will not stigmatize them by calling their names from a long oblivion.

The Senate is known to have been almost equally unanimous; but the Secretary's office does not furnish me the means of honoring those who then sustained these republican principles, by repeating their names.

In the same year the principles of Kentucky were seconded by the voice of Virginia. The third, of a series of resolutions adopted by the General Assembly of that State, reads thus, viz: "That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid than they are authorised by the grants enumerated in that compact, and that, in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them."

The resolutions from which the foregoing is extracted, were communicated to each of the United States, and by most of the legislatures denounced and reprobated in strong terms. The Virginia legislature of the next year reviewed and reasserted the principles contained in them, and they became the polar star of the great republican party. From the report adopted by them on this latter occasion, which was drawn by the able pen of Mr. Madison, I extract the following pertinent remarks relative to the powers of the national judiciary, to whose decisions we are now required to submit with implicit obedience.

"But it is objected that the judicial authority is to be regarded as the sole expositor of the constitution, in the last resort; and it

may be asked, for what reason the declaration of the General Assembly, supposing it to be theoretically true, could be required at the present day and in so solemn a manner.

"On this objection it might be observed, first, that there may be instances of usurped power, which the forms of the constitution would never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the authority of the sovereign parties to the constitution, the decisions of the other departments, not carried by the forms of the constitution before the judiciary, must be equally authoritative and final with the decisions of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases in which all the forms of the constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the judicial department also may exercise or sanction dangerous powers beyond the grant of the constitution; and consequently, that the ultimate right of the parties to the constitution, to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another; by the judiciary, as well as by the executive or the legislature.

"However true, therefore, it may be, that the judicial department is, in all questions submitted to it by the forms of the constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the government; not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power, would annul the authority delegating it; and the concurrence of this department with the others, in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution, which all were instituted to preserve."

These were the principles and this was the language of the republicans in 1798 and 9. In my late message I observed:

"The decrine of our late Court of Appeals, that an opinion of the supreme court of the United States on subjects involving the rights of the States, is binding and conclusive on State authorities, is believed to be not only erroneous, but fatal to the sovereignty of the States. When the general government encroaches upon the rights of the State, is it a safe principle to admit, that a portion of the encroaching power shall have the right to determine finally whether an encroachment has been made or not? In fact, most of the encroachments made by the general government, flow through the Supreme Court itself, the very tribunal which claims

to be the final arbiter of all such disputes. What chance of justice have the States, when the usurpers of their rights are made their judges? Just as much as individuals when judged by their oppressors. It is, therefore, believed to be the right, as it may hereafter become the duty of the State governments, to protect themselves from encroachments, and their citizens from oppression, by refusing obedience to the unconstitutional mandates of the Federal Judges."

If, in laying down these principles, I have erred, the House of Representatives will perceive, that I have erred with a Jefferson, a Madison, a Breckinridge, with the entire republican party of 1798 and 1799. If this be error, you will pardon me for preferring to err with these distinguished men, to being right with the ephemeral politicians of this day, who, mantled in the names of the illustrious dead or appealing to their authority in solemn mockery, set at naught all their principles, and charge with sedition and a thirst for war, those who dare proclaim them.

In your seventh resolution the Governor is requested "to communicate to this house, whether he has received any assurances from the head of the judiciary, or those claiming to be at the head of the judiciary, that they will resist the mandates of the Supreme Court of the United States, and thereby create a tower of defence against encroachments, in cases taken from the head of our judiciary to the Supreme Court, in pursuance of the constitution of the United States, and the laws of Congress made in pursuance thereof."

If, by "the head of the judiciary," the House of Representatives mean those men whom they have solemnly declared to be the head of the judiciary, viz. Messrs. *Boyle*, *Owsley* and *Mills*, then I answer, that so far from having received any such assurances, I have, on the contrary, been explicitly assured by them, in repeated decisions, that they will submit to and obey the mandates of the Supreme Court, although they believe them to be unconstitutional and subversive of the constitutional laws and undoubted rights of their own State. In the case of the Commonwealth *vs.* Morrison, decided at the fall term, 1818, 2 Marshall 99, is the following passage:

"We are, therefore, unanimously of the opinion, that the law establishing the office of discount and deposit within this State, is unconstitutional, and that the State has, on that account, a right to tax it. The Chief Justice is of the opinion, that the capital stock of that office, upon the supposition that its charter is legitimate, cannot be taxed by the State. Judges Owsley and Rowan are of the opinion, that the State may tax its capital stock whether the charter be legitimate or not. *The Chief Justice and Judge Owsley are of the opinion, that the decision of the Supreme Court of the nation, in the case of M'Culloch and the State of Maryland, is de-*

cisive of the question in this case, and binding upon the court. To preserve an uniformity in the operation of the constitution and laws of the United States in every part of the nation, it is essential that there should be vested in one tribunal the power of ultimately deciding all questions involving their validity or effect, and understanding the Supreme Court to be vested with that power, and that it has, under the constitution and laws of the United States, appellate jurisdiction in this case, they conceive themselves concluded by its decision, and therefore affirm the judgment of the court below; from which affirmance Judge Rowan dissents."

Here, Judges *Boyle* and *Owsley* submit to an act of Congress which they declare to be *unconstitutional*, and give up an act of their own State, involving its taxing power, which they declare to be *constitutional*, not at the *mandate*, but upon the *dictum* of the Supreme Court. I take this to be a *strong assurance*, that they will do the like again on every like occasion.

Mr. Mills, however, was not then a member of this court. But in the case of the *Bank of the United States vs. Norton*, 3 Marshall 423, he concurs with Judges *Boyle* and *Owsley* in the following declaration:

"In reviewing the decision of that court, the legal and constitutional existence of the bank, will be assumed as a proposition not now admitting of controversy. The shareholders of the bank have been incorporated by an act of the Congress of the United States; and that act of incorporation has been held, by the Supreme Court of the nation, to be no infraction of the constitution of the United States—*a court deriving from the constitution jurisdiction in all cases, in law and equity, arising under the constitution and laws of the United States, and possessing appellate jurisdiction over the final judgments and decrees of the highest courts of law and equity of every State, in all cases involving the construction of any clause of the constitution or statute of the United States, and whose exposition of the constitution or statutes of the United States, is conclusive on all State courts throughout the United States.*"

Here is the positive assurance of these three men, that they consider the construction given to the constitution and laws of the United States by the Supreme Court, *as conclusive on all State courts*; and, of course, that they will submit to such construction.

I am informed, that the same individuals, still claiming to be the head of the judiciary, have lately, in some of their *dicta*, advanced the same principle for a third time. They assert, as I am told, that the decision of the Supreme Court vacating our occupant laws, is *not* conclusive and binding upon the State courts, because it was not given by a majority of that court; whence is derived the unavoidable inference, that if it had been given by a majority, they would have considered it as binding as the decision in the bank case. Indeed, it is impossible that men who have

said that the decision of the Supreme Court subverting the taxing power of the State, in violation of the constitution, "is conclusive of the question and binding upon *our* courts," and that the exposition given by that court "*of the constitution* or statutes of the United States," can now turn round and say, that *the exposition* given by the same court, of the constitution of the United States relative to our occupant laws, is not conclusive on the courts of this State. I have, therefore, the reiterated and solemn assurance of these men claiming to be at the head of the judiciary, thrice repeated, that they will not resist, but will submit to and carry into effect, any and every decision given by a majority of the Supreme Court, vacating the occupant or any other laws of this State, on the ground of their repugnance to the constitution or statutes of the United States, although, in their opinion, such decision prostrates the reserved powers and most precious rights of the State, and the dearest interests of the people.

From the actual head of the judiciary, I have received no assurances which are not contained in their official acts and known principles. They have decided in favor of our occupant laws without reference to the decision of the Supreme Court, and it is believed they do not, on that subject, consider themselves bound by that decision, even if it had been given by the unanimous concurrence of all the seven Judges. They are at the head of the judiciary of one government, and the Supreme Court is at the head of that of another. On this point and many others involving the reserved powers of the State, the decision of the Supreme Court is no more obligatory upon them, than would be their decision on a point strictly national, upon the Supreme Court. They may as rightfully pronounce an embargo unconstitutional, or direct the nation to withdraw her navies from the ocean, as the Supreme Court can command the State of Kentucky to desist from legislating over her soil, or taxing any occupation or private business carried on within her borders. Our Court of Appeals ought not to be the pliant tools of usurping power, or the humble instruments of self degradation. At the head of one department of the State government, it is as much their duty to guard its rights and shield them from invasion, as it is yours at the head of another. When they fail to do it, they are faithless sentinels, and betray their trust. But it is strange, that the representatives of the people see no mode of meeting the decisions of the Supreme Court with disobedience, but by arraying the physical force of the State. Some of them were not thus dull last spring, in devising ways to resist our own Court of Appeals. The circuit courts were then urged, not to take upon themselves the right of determining the constitutionality of laws merely, but to decide on the legal existence of their own superior, and refuse to obey its mandates. Were the power assumed by the circuit courts legitimate,

and were the case analogous, it is not perceived why an inferior court may not as well refuse obedience to the unconstitutional act of its lawful superior, as to all acts of an unconstitutional superior. But the case is not analogous. Our Court of Appeals, at least in many points, has no superior. Its decisions relative to the reserved powers of the State, are final, and not of right reversible by any earthly tribunal. When, therefore, any tribunal usurps the power of reversing such decisions, our court may rightfully refuse obedience to its mandates. This is the doctrine of '98; it is the doctrine of the American Union, of the republican party, of right and public safety. To show that it is the doctrine of at least one judicial tribunal in the nation, I present you with the following extract of an opinion of the Virginia Court of Appeals, in the case of Hunter against Martin, devisee of Fairfax:

"The court is unanimously of the opinion, that the appellate power of the Supreme Court of the United States, does not extend to this court, under a sound construction of the constitution of the United States; that so much of the 25th section of the act of Congress to establish the judicial courts of the United States, as extends the appellate jurisdiction of the Supreme Court to this court, is not in pursuance of the constitution of the United States; that the writ of error in this case, was improvidently allowed under the authority of that act; that the proceedings thereon in the Supreme Court, were *coram non judice* in relation to this court; and that obedience to its mandate be declined." Judges Cabel, Brooke, Roane and Fleming presided.

Pardon me for adding, that the doctrine of passive obedience to the Supreme Court, asserted by our late court, and implied in your resolutions, is precisely the doctrine maintained in the preambles and resolutions adopted by the federal Legislatures of several States, in 1798, in reply to the Kentucky and Virginia resolutions. Delaware said, "those resolutions were a very unjustifiable interference with the general government and constituted authorities of the United States." Rhode-Island said, "the constitution vests in the federal courts, exclusively, and in the Supreme Court of the United States, ultimately, the authority of deciding on the constitutionality of any act or law of the Congress of the United States." Massachusetts said, "this Legislature are persuaded, that the decision of all cases in law and equity, arising under the constitution of the United States, and the construction of all laws made in pursuance thereof, are exclusively vested by the people in the judicial courts of the United States." New-York said, "the judicial power extends expressly to all cases of law and equity arising under the constitution and the laws of the United States, whereby the interference of the Legislatures of the particular States in those cases, is manifestly excluded." New-Hampshire said, "the State Legislatures are not

the proper tribunals to determine the constitutionality of the laws of the general government; that the duty of such decision is properly and exclusively confided to the judicial department." Vermont said, "it belongs not to the State Legislatures to decide on the constitutionality of laws made by the general government; this being exclusively vested in the judiciary courts of the Union."

These notions of implicit submission to the national judiciary, were the doctrines of federalists in 1799. I leave it to your reflections to determine whose doctrines they are in 1825.

In your eighth resolution the Governor is requested "to communicate to this house, any information which he may have in his possession, that the constitutionality of the two years' replevin, pronounced unconstitutional and void by the Court of Appeals, was never doubted until the interest of the United States' Bank made it necessary that new and more rigid principles should be incorporated into our system of government; and further to inform this house whether the Court of Appeals has adjudicated upon any case, between the Bank of the United States and a citizen of Kentucky, in which attempts were made to vacate our laws or acts of Assembly."

In my former message, I stated in relation to replevin laws generally, not the two years' replevin law only, "that their constitutionality seems never to have been doubted, until the interest of the United States' Bank made it necessary that new and more rigid principles should be incorporated into our system of government." You had a right to make your demand for evidence broader or narrower than my assertion. I asserted, "that the constitutionality of replevin laws *seems* never to have been doubted;" you ask me for the evidence that it *was* never doubted. I asserted my *impression;* you ask me to prove *a fact.*

Did the able lawyer who penned this resolution, ever require evidence of a negative, even of a witness at the bar of a court? You ask me for the evidence that the constitutionality of replevin laws was never doubted. What evidence can exist of that which never was? I might turn upon you and demand the evidence that their constitutionality ever *was* doubted, and if you would not produce it, I might with propriety repeat my assertion that it seems *never to have been doubted.* But as the correctness of *what seems to me*, might be considered by you of *vast importance* in you legislative proceedings, I will endeavor to recapitulate those historical facts and circumstances, on which my impressions were founded.

The convention which formed the constitution of the United States, finished their work and delivered it over to the American people on the 17th day of December, 1787. Before its final adoption by the States, and while it was under the severest scrutiny throughout the continent, in which the construction and true meaning of every doubtful passage, was the text of a thousand

pens and the theme of ten thousand tongues, the Legislature of Virginia, on the 4th day of January 1788, passed a retrospective replevin law, which, if modern construction be correct, violated one of its most sacred provisions. The following is an extract from that act, viz.

"Whereas great injury has been sustained *by both* debtor and creditor, by the operation of the existing laws concerning executions: *Be it enacted*, &c. That so much of all acts as allows the defendant to give a replevin bond payable in three months, and thereby to obtain a restoration of his property, levied upon by virtue of an execution, be repealed;" and proceeded to enact, "that *on all executions hereafter issued*, if the goods or other estate could not be sold for three fourths of their value, at the least, in the opinion of persons whose appointment the act provided for, the debtor or debtors, or any of them, might enter into a bond with sufficient security, to be approved by the appraisers, to pay the debt with interest and costs within twelve months; and, that when no such bond should be offered by the debtor or any person for him, and the goods or other estate could not be sold for three-fourths of their value, the sheriff should sell the same on a credit of twelve months, and take bond with security from the purchaser, to pay the same with interest, to the creditor."

It is true, the constitution had not then been adopted. But would the statesmen of that day have committed an obvious infraction of the fundamental principles of an instrument which they were at that very moment urging the people to adopt? It is impossible. But it is not necessary to rely on this point. It was adopted by the convention of Virginia in 1788, and was declared to have been ratified by a competent number of States to put it into operation, by a resolution of Congress, adopted on the 13th day of September in the same year, from which time it became the supreme law of the land. On the 29th day of the succeeding December, the Legislature of Virginia amended the replevin law from which I have quoted, without altering its retrospective features, thereby directly recognizing its conformity to the constitution which had been so recently adopted. But it is not necessary to rely even on this act. The act of 4th January 1788, was limited by its own provions to three years, and would have expired on the 4th day of January 1791. But on the 15th of December, 1790, it was continued in force by a new amendatory act, until the 1st day of January, 1793. On the 15th of December, 1792, another act passed, to reduce into one the several acts concerning executions, which contains the same retrospective replevin and valuation principles and sale upon credit. Thus did the Legislature of Virginia, filled with revolutionary patriots and statesmen, who aided in forming, discussing and adopting the constitution, *four times* after its formation and *three* within the first five years after

its adoption, directly recognize and confirm the constitutionality of a retrospective replevin law. It *seems* not to have been doubted then.

In the mean time, Kentucky had become an independent State. Her first Legislature, in October 1792, passed an act of which the following is an extract, viz.

"If the estate cannot be sold for three fourths of the value thereof, in the opinion of the commissioners appointed to value property, pursuant to an act entitled "an act directing the mode of proceeding under certain executions," it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond and sufficient securities, to be approved by the valuers aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor, within three months. And on such bond being given, the sheriff or other officer shall restore to such debtor the estate so taken: and when no bond and security shall be offered by the debtor or any person for him, and the estate taken in execution cannot, in the opinion of the valuers aforesaid, be sold for three fourths of its value at least, the sheriff or other officer shall set up and sell the same for money or tobacco, as the case may be, to be paid at the end of three months, and shall take bond from the buyer or buyers, with one or more securities, to pay the same accordingly, with interest, to such creditor." 1 Litt. Laws, p. 128.

Here are the same principles of delay and stay of execution which had all along prevailed in Virginia.

On the 13th of March 1793, while the acts of Virginia and Kentucky to which I have alluded, were in full force, the Congress of the United States passed an act of which the following is an extract, viz:

"That where it is now required by the laws of any State, that goods taken in execution on a writ of *fieri facias*, shall be appraised previous to the sale thereof, it shall be lawful for the appraisers appointed under the authority of the State, to appraise goods taken in execution, on a *fieri facias* issued out of any court of the United States, in the same manner as if such writ had issued out of a court held under the authority of the State; and it shall be the duty of the marshal, in whose custody such goods may be, to summon the appraisers in like manner as the sheriff is, by the laws of the State, required to summon them; and the appraisers shall be entitled to the like fees, as in cases of appraisements under the laws of the States." 2 Laws U. S. p. 367.

Thus did Congress, within five years after the adoption of the constitution, recognize the appraisement, and of course the replevin laws and credit sales of the States, and their act was approved by *George Washington*, President of the United States, who had

been President of the convention. Their constitutionality *seems* not to have been doubted then!

The first Legislature of Kentucky, by a law passed by them in 1792, allowed a replevin of three months on all contracts made before its passage, which was *wholly* retrospective. No other replevin law ever existed in Kentucky until 1799, when an act was passed granting a replevin of three months on all contracts made as well before as after its passage. The constitutionality of such a measure *seems* not then to have been doubted.

This system continued until the embargo in 1808, when an act passed granting a replevin of twelve months on all contracts made as well before as after its passage. This act had the alarming title of "*an act for the relief of debtors;*" and the following is its first section, viz:

"Be it enacted, &c. That if the defendant or defendants in any execution *now issued*, or to be hereafter issued, on any judgment or decree *had* or to be had; or in any execution now issued or to issue *on any replevin bond, now in being*, shall, at or before the day of sale, tender sufficient security, to be bound with him to pay the amount, and also, all costs, with lawful interest for the same, to the creditor or creditors on such execution, in one year, then the sheriff or other officer shall immediately release the estate or body, as the case may be, of such defendant or defendants, from such execution."

Even yet the constitutionality of replevin laws *seems* not to have been doubted; for *William Owsley* voted for this act! The embargo was repealed; this act expired; and the State reverted to its old system of three months' replevin, which continued until after the commencement of the late war.

In 1814 the Bank of Kentucky suspended specie payments, and to sustain the currency of the country, protect the interests of the people and aid the measures of government, it was deemed expedient to resort to the principle of replevins, which had ever been done in cases of emergency, ever since the adoption of the constitution. An act was therefore passed from which I extract the following sections, viz:

"Be it enacted &c. that when any execution shall issue in this Commonwealth from the clerk of any court, or any justice of the peace, on any judgment *heretofore or hereafter* obtained, the plaintiff or plaintiffs may endorse, by themselves, their agent or attorney, these words: "Either notes on the Bank of Kentucky or its Branches, or the notes of any other incorporated Bank of this State, or notes on the Treasury of the United States, may be accepted by the officer in discharge of the whole of this execution;" and in case such endorsement is made, said execution shall be collected or replevied agreeably to the laws now in force, without any further stay or replevin as hereinafter allowed.

"Be it enacted, that when any execution may issue as aforesaid without an endorsement showing the consent of the plaintiff or plaintiffs to take such bank notes and treasury notes, and the said execution be levied on the estate or person of any such defendant or defendants, he, she or they may give bond with approved security, to the officer executing the same, to pay the amount of debt, interest and costs of any such execution, to the plaintiff or plaintiffs at twelve calendar months; and the officers of justice shall be regulated in taking the said bond and renewing execution thereon, as they are now directed by law, in cases of replevin bonds at three months." Ses. acts 1814, page 391.

Even yet the constitutionality of replevin laws *seems* not to have been doubted; for *Benjamin Mills* voted for this act! This act was continued, without any essential change in its leading features, until it was absorbed in the measures of 1819, '20 and '21.

In 1817 the Branches of the United States' Bank were located in this State. Now, mark the era of *doubts!* In 1820 the constitutionality of the endorsement and replevin law was *doubted* and called in question before the circuit court of the United States for the Kentucky District. Judges *Todd* and *Trimble*, however, affirmed its constitutionality, because the States had been in the habit of passing them from the adoption of the constitution "*without objection.*" But as the power and influence of the United States' Bank extended, *doubts* multiplied and increased. The constitutionality of replevin laws was *doubted* in our circuit courts, in our court of appeals, and in the federal circuit, and in the supreme court of the United States. Men have *doubted* the settled construction of the constitution adopted by those who formed it and practised for almost half a century; have *doubted* the authority of their own statute books and law books; have doubted their own acts, and for aught I know, their own integrity; until *doubt* has become a firm conviction that themselves and the whole world have been wrong ever since the adoption of the constitution, and doubtless many will soon begin to *doubt* "that they ever *doubted*." What potent agent or resistless influence has thus turned back the tide of men's opinions and caused them to level the mountains of authority in which they had their source? It *seems* to me, that the current never changed until the Branches of the United States' Bank were located among us, and that the change has acquired volume and strength in the ratio in which their influence and power have extended and increased.

Look at the army of men whose names stand recorded in our public records in favor of the constitutionality of these laws. The following are a few of their officers: In our own State, we have Governors Isaac Shelby, James Garrard, Charles Scott, John Adair and acting Governor Slaughter; Judges Trimble and Todd, of the federal court; William Owsley, Benjamin Mills, G. M.

Bibb. Ninian Edwards, Felix Grundy, William Logan, John Rowan, W. T. Barry, James Haggin, John Trimble, B. W. Patton and Rezin Davidge, of the late and present court of appeals; Henry Davidge, John L. Bridges, Jesse Bledsoe, W. P. Roper, George Shannon, Eli Shortridge, John P. Oldham, Paul I. Booker, William Warren, and many others, now or heretofore circuit Judges; Martin D. Hardin, R. C. Anderson, R. B. M'Afee, R. A. Buckner, George Walker, Richard Rudd, D. C. Cosby, John Breathitt, William Owens, J. T. Johnson, J. W. Denny, Samuel Daveiss, Richard Southgate, David White, Jr. W. B. Booker, R. P. Letcher, Wm. Thompson, J. C. Breckinridge, Frank Johnson, W. B. Blackburn, J. J. Marshall, John Green, Chilton Allan, John Logan, Mathews Flournoy, Archibald Woods, W. P. Fleming, Samuel Todd, John Pope, Thomas Fletcher, J. H. Todd, and many others, lawyers of our own State. To these might be added an almost boundless catalogue of names of respectable citizens, who as legislators have recorded their votes in favor of the constitutionality of these laws. It has been sanctioned by a *Washington*, by the *Randolphs*, *Lees*, *Pendletons* and all the eminent statesmen of our parent State. Indeed the names of those who have voted for and sanctioned this principle in Virginia and Kentucky, could hardly be written with a pencil on the walls of your Hall. They are almost as numerous as the stars in the galaxy of the Heavens, and to the candid enquirer afford a pillar of light which cannot be obscured by the *doubts* which have arisen in these modern times, from the vaults of Banks and the pools of mercantile cupidity. If, on this subject, there be a doubt scattered along the legislative or judicial path of nearly half a century, it has escaped my observation. That such laws continued to be swept through our legislative bodies by immense majorities; that they were recognized by the judiciary as entirely valid, until since the location of the United States' Branch Banks in this State; and that those Branches and their parent, in conjunction with their friends, have had the chief agency in raising the *doubts* which have led to their prostration, are facts which are attested by the annals of the country, by the memorials of the illustrious dead, and by the testimony of the living.

It requires no argument to prove, that the principle adopted by our late Judges, is peculiarly adapted to promote the interest of the United States' Bank. A Bank has no soul; it requires the most rigid punctuality, notwithstanding the calamities of earth and the dispensations of heaven. There is no appeal to the bowels of its mercy; for it has none. War, pestilence and famine stay not its inexorable hand. Whether debtors be prostrate on their beds with a general and dreadful epidemic, whether they be in search of bread for starving families in consequence of blasted crops, or whether they be called from home by their government to

suppress insurrections or repel invasions, its language to them is, "pay me what thou owest," without replevin or delay, and our former court says, yea verily, such is the constitution and it must be done. The principle is a Bank principle; it is fit only to promote the interest of Banks; it is incompatible with the government, interests and safety of the people; it is irrational and inhuman. It is, therefore, the interest of Banks, and not the interest of the people, which has originated and attempted to enforce this new and rigid principle.

I have now replied to your resolutions in detail, as particularly as seems to me necessary. But I must ask your indulgence while I show from the records of our State, that I am not the first who has sounded the tocsin of alarm to the Legislature of Kentucky, warning them against the power and influence of the United States' Bank.

At the December session, 1817, the Legislature laid upon the branches of that institution located in this State, a just and equitable tax, which they refused to pay. At the opening of the December session 1818, the following language is used towards them by *Gabriel Slaughter*, then acting Governor, in his message, viz.

"The condition of our Banks, and especially of the State Bank, in which the Commonwealth has a large interest, lately compelled to suspend specie payments, as I understand, by a pressure for specie from the United States' Bank; the refusal of that bank to pay the tax imposed on her branches located in this State, are subjects of primary importance, and claim the early attention of the Legislature. Whether Congress can erect an immense monied corporation, with power to locate branches in the different States, without their consent, and exempt the stock and capital employed from the common burthen of taxation, to which the stock and capital of the State institutions are subject, is a question of some novelty, and of the first magnitude. If the power of taxing has been improperly assumed by the Legislature, it ought to be disclaimed and the law repealed; but if upon an impartial and dispassionate review of the subject, you should be convinced that the power exists, the representatives of the people owe it to themselves, and to the State, to enforce it.

"In making these suggestions, I beg leave to assure you and my countrymen generally, that I am not prompted by any particular hostility to the national Bank, or a disposition to excite unfounded or unworthy prejudices against it. I am conscious only of a salutary zeal for the rights and independence of the State over which I have the honor to preside. I am indeed, ready to confess, that my sentiments, or perhaps prejudices, ever have been, and still are, strongly against the banking system. Time and experience, instead of conquering these prejudices, have tended to confirm them. I have ever viewed these corporations with

jealousy. I consider the corporate powers and privileges conferred on them, as so much taken from the powers of the people, and a contrivance to rear up in our country, a monied aristocracy. Money is power, in whatever hands it is placed; but it is less dangerous when divided amongst individuals, than when combined and organized in the form of banks. In vain did the American people, during their struggle for liberty and independence, destroy the landed aristocracy then existing under the law authorizing estates to be entailed, if a monied aristocracy is to be substituted. Instead of having our National and State Legislatures filled with men representing the feelings and interests of the great agricultural class of the community, I fear we shall see the towns throughout the country, with the aid of these banking aristocracies, greatly preponderate on the legislative floor. I must ever be opposed to any system of policy, which, independent of its pernicious and corrupting influence in other respects, tends to diminish, if not destroy, the weight and influence of the farming interest, upon whose virtue and independence the duration of our free institutions so essentially depends.

"While this system exists in the other States, Kentucky can do little to rescue the country from the evils and anti-republican tendencies of those monied corporations. Let us, therefore, invite a co-operation in some plan co-extensive with the Union, to redeem this young and rising republic from the mischiefs and dangers of this paper system, before it is too late. If permitted to progress and interweave itself with all the interests and concerns of society, it may, in a more advanced and dense state of our population, explode in a convulsion of the government. The disease, it is true, has taken deep root; but the American republic is young, and by a vigorous and determined effort, may, in a few years, exterminate it. Some time may be necessary to enable those institutions to wind up. To effect so desirable an object, I would recommend to the Legislature, to propose an amendment to the federal constitution, providing that after a certain period, no incorporated bank should exist in the United States, or if this should be thought going too far, and banks in any shape or to any extent, are useful and necessary, let the banking power be limited, and the system so regulated and restricted, as to secure the community against the wide spread ruin and mischief with which we are threatened. These observations are not dictated by any design to awaken an improper indignation against the United States' Bank, or to encourage an unconstitutional opposition to its legitimate operations. No patriot, no American, who holds in just estimation the free principles of constitutional government, for which our ancestors bled, would consent to inflict a wound on our sacred constitution, for any amount this gigantic corporation could pay. I most sincerely exhort you to give to the question an impartial

and dispassionate consideration, unbiassed by State pride or State jealousy. If, after a mature and candid examination of the subject, you shall be convinced of the constitutional right of the State to impose the tax, I would recommend an amendment or modification of the act imposing the tax, so as to authorize its collection by distress or attachment. If, as I have supposed, the right exists, it ought to be maintained; and I am ready to admit, that my partialities are on the side of the State institutions. The cardinal point, however, with me, is not so much what bank shall prevail, as how the country is to be saved from the evils and oppressions of both."

On the 13th of December, *Mr. Crutcher* offered in the Senate, a preamble and resolutions of which the following are extracts, viz.

"While the stock of our State banks and other banks, is taxed for the support of government, the United States' Bank denies the right or power of this Commonwealth to impose a tax upon the stock held by citizens, non-residents and aliens, in that institution. Against this position, we, as the representatives of the people of this State, protest. We believe that the best interests and prosperity of our citizens, require the speedy withdrawal of those branches from this State.

"We also believe, that if the stockholders or directors of the Bank of the United States have, by any act, forfeited their charter, that it is expedient to repeal the same: Wherefore,

"*Resolved*, &c. That it is the wish, desire and interest of the people of this State, that the President and Directors of the United States' Bank recall their branches located in this State.

"*Resolved*, &c. That our Senators and Representatives be requested to take into consideration the expediency and constitutionality of repealing by law or otherwise, the charter of said bank."

The names of those who voted in favor of these propositions, are Messrs. Bartlett, Bridges, Chambers, Crutcher, Eve, Faulkner, Ford, Given, Griffin, Harrison, Jones, Mason, Owens, Perrin, South, Slaughter, Thompson, Wickliff, Wilson, Wood, Worthington and Yancey, and Mr. Davidson only voted in the negative.

But the House of Representatives took a bolder course. The late *Solomon P. Sharp* introduced a bill laying a tax on those institutions, which was fixed at $60,000 on each, for the avowed purpose of driving them out of the State. In favor of this bill, the following names stand recorded, viz. Messrs. Allen, Baker, Barret, Berry, Booker, Breathitt, A. Butler, Carter, Chew, Chinn, Coburn, Coombs, Cunningham, Dallam, Davis, Dollerhide, Duncan, (of Daveiss,) Forest, Gaither, George, L. Green, Givens, Hanson, Harrison, Haynes, Hickman, Jennings, J. Johnson, B. Johnson, Jones, Kennedy, Knight, Lackey, Love, J. Logan, Mer-

cer, M'Kee, M'Closky, M'Millan, Miller, Morton, Mullens, Noland, O'Bannon, Owings, Parsons, Prather, Ray, Rennick, Robinson, Scott, Sharp, Stockton, Stratton, Z. Taylor, J. Taylor, Thomas, Turner, Underwood, G. Wall, W. Wall, T. Ward, J. Ward, Wickliffe, Williams and Worthington.

There were twenty-three negatives. Through the Senate the same bill passed by a vote of twenty to twelve, and it was approved by the acting Governor, Gabriel Slaughter.

The federal Judges prevented the collection of this tax, by granting an injunction, and before the next session of the Legislature, the Supreme Court gave their famous decision in the case of M'Culloch vs. the State of Maryland. Yet was our acting Governor, Gabriel Slaughter, resolved on maintaining the rights of the State, and in his message at the opening of the December session in 1819, he uses the following forcible language, viz.

"The State should not underrate its power to repel malignant influences from abroad, more than to promote beneficial influences at home. The power to preserve itself and to promote the prosperity of the community, is inherent in sovereignty, and the States should not hastily or lightly surrender it. I am aware that the Supreme Court of the nation have declared the law creating this bank constitutional, and have denied to the States the power of taxing it. But much as we reverence the institutions of the national government, and respect their incumbents, is it not due to the character of sovereignty, that the States who possess it, should enquire into this matter, should assert their right to exercise it, and relinquish it only upon the most thorough conviction that it has been surrendered by the States to the nation.

"Anterior to the promulgation by the Supreme Court of the opinion above alluded to, the agent of the State was restrained by an injunction awarded by the Circuit and District Judge of the seventh judicial district, from collecting the tax imposed by the last Legislature upon those offices. How far it is compatible with the dignity of the superior power of the State, to be manacled, restrained, or propelled by persons clad with authority by the nation, it behoves the State to ascertain. This, gentlemen, is a subject of mighty import. It involves nothing less than the sovereign agency of the States; for if one department of the national government may usurp the sovereignty of the States, and another department consecrate the usurpation by pronouncing it constitutional, then is the tenure of sovereignty by the States, a fit subject for derision. The principle that any portion of its supreme power must be tamely surrendered by a State, in obedience to a decree made by the usurper, sanctifying in one character what he had usurped in another, can never, it would seem to me, be conceded by a rational people. But should the evils suggested be thought, under the existing state of things, to be beyond the

reach of immediate legislative remedy, would it not be prudent to open a correspondence with our sister States, and thereby commune with them upon this subject of common and vital interest? It is within the power of the States to amend the constitution of the United States, if no other efficient means of vindicating their rights should be found, and thereby protect themselves from at least a renewal of this *odious* charter, and from the effect of that not less odious principle, that the *national judiciary* shall *alone* decide upon the right of the States to exercise their sovereign power. I have always been opposed to the establishment of banks, not only on the ground that exclusive privileges were thereby conferred; but because their operation tends to generate in the community, an inordinate cupidity, and a spirit of extravagance, a contempt of moderate gain, and a consequent laxity of morals. But the Bank of the United States is of such colossal structure, and will, when it attains maturity, be of such gigantic strength, as to be (it would seem to me) incompatible with our republican institutions. The truth of the position, that money is power, is acknowledged by all the elementary writers upon the science of government, and exemplified practically by all the governments of which history furnishes any record. The capital of this bank is thirty-five millions of dollars, with the power of issuing bills to the amount of one hundred and five millions, an amount greater, it is believed, than can be wholesomely circulated for half a century to come. The president and directors, consisting of twenty-five, are to direct and control this mighty mass of circulating medium—the entire money used by the American republics—republics in name only; for, according to the position above stated, the president and directors of this institution are to govern the nation. They direct and control the money, and of course possess the power of the nation. This bank, then, is to be a disguised aristocracy, enormous in stature, and invincible in strength. It is even now attempting, while an infant, to strangle the States; and the nation, though destined to be its next victim, has uttered in smiles its approbation of the *horrid deed*. It may be thought that I speak too plain on this subject. Disguise is not one of my habits; duty bids me speak, and the importance of the subject demands that I should speak plainly. I do believe that the existence of the Bank of the United States is incompatible with republican civil liberty, the only shape of liberty worth, in my belief, maintaining or contending for."

Where then slept the patriotism of the House of Representatives, that they did not call on the Executive, in bitter irony, to tell them in what mode he deemed it most advisable to resist the mandate of the Supreme Court, and whether he thought it expedient, for that purpose, to array the physical force of the State? Not a voice of censure or complaint was heard in our legislative

hall. All knew the influence of these institutions and saw the danger. But all further efforts to arrest it by State authorities, were rendered fruitless by defection in their own camp. Six days before this message was delivered, our Court of Appeals gave their decision, in which Judges Boyle and Owsley surrendered the power for which the Executive and Legislature were contending, and sealed the triumph of the bank. All further designs to expel them from our borders, or subject them to our power, were relinquished in despair, and they have ever since marched forward unresisted, conquering and to conquer, until they have made themselves almost as independent of our government as a Rajah of India. Trampling on our sovereign power of taxation, accumulating our houses and lands, freed from our execution laws, dragging our citizens into the federal courts and forcing them to defend beyond the mountains, they have gone so far with their usurpation and insolence, that a Governor is interrogated like a culprit at the bar of your house, because he dares to expose their influence and denounce their power. How changed is the scene within the short period of six revolving years, since the acting Governor delivered the message from which I have quoted, and how discouraging is the prospect for the maintenance of the remaining powers of our State government!

Our system of government is one which deserves to be perpetual. The State and general governments, are each necessary to the preservation of the other, and in a due administration of both, rests the only security of our liberties. Were the States to strip the general government of its powers, or assume entire independence, all security, and freedom itself, would be lost in the perpetual conflicts of petty nations. Were the general government to usurp from the people of the States their powers of local legislation and self government, we might see, for a while, a splendid central government, but it would be the tomb of extinguished freedom. This continent was not made for one consolidated government. The conditions and habits of our people are too dissimilar to be accommodated by the same institutions and laws. We must have our local Legislatures, or our government will become a government of the bayonet, and not of reason.

Nothing is more dangerous to the State governments, to the general government and to the liberties of the people, than corporations which embody the interests of powerful men, and concentrate millions of money in one point, and facilitate its application to any purpose, legal or illegal, meritorious or wicked. Hence I have ever been opposed to banks, and especially a bank of the United States. I voted against it when in Congress, because I thought it unconstitutional and dangerous to liberty. With a capital of $35,000,000 at command, it can, and I fear will, conquer the States and control the Union. I see nothing in the events of

the times to change my opinions or allay my apprehensions. If its influence, operating through powerful lawyers, shall bend the decisions of our courts to suit its interest and its will. I pray Heaven that it may never reach the legislative floor. May those who stand there, ever come clothed in the majesty of a free people, uninfluenced in their principles or acts, by this mighty corporation. May it never be said, that vain men, raised in its shade, fed by its smiles and elected by the votes of its officers, dependants and friends, shall have the power to direct a State Legislature, support a perverse Judiciary, and browbeat and insult a State Executive.

JOSEPH DESHA.

December 14, 1825.

RULES

Concerning Executions and the manner of proceeding under them, in the Courts of the United States in the Kentucky District, and by their officers.

All persons recovering any debt, damages or costs by the judgment of the court, may, at their election, prosecute writs of *capias ad satisfaciendum*, *fieri facias* or *elegit*, within the year, for taking the body, goods and chattels, slaves and lands of the person or persons against whom such judgment has been or shall be obtained. The writ of *capias ad satisfaciendum* may be sued out, in the first instance, as provided by the act of Congress, passed the 8th of May in the year 1792; or if, upon the return of the writ of *fieri facias*, it shall appear that no estate is found, or not sufficient estate whereof to make the debt, damages or costs, the writ of *capias ad satisfaciendum* may issue. If the marshal shall return that the defendant therein is not found, a *fieri facias* may issue, and where part of the debt may be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon an *elegit*, a *capias ad satisfaciendum* or *fieri facias* may issue, and so *vice versa*.

2. The forms of executions shall be the same as heretofore used in this Court, and they shall be made returnable to some rule day not less than thirty nor more than ninety days after the teste thereof.

3. Where any writ of *capias ad satisfaciendum* has been, or shall be served on any one, he or she may tender to the marshal, lands, slaves or personal property to the value of the debt, damages and costs for which such execution issued, which estate the marshal shall receive, provided it be in his opinion sufficient to satify the debt, damages and costs, and provided the party taken in execution, at the time of such tender, make or cause to be made, a schedule or memorandum, subscribed by the party and attested by at

least one witness, of the estate so tendered, and deliver said schedule or memorandum to the marshal; and provided also, that if land be tendered, the party deliver to the marshal the title papers or office copies thereof; and thereupon the marshal shall discharge the person so taken in execution, out of custody; which estate so surrendered, the marshal shall proceed to sell in like manner as estate taken in execution upon a writ of *fieri facias*. If such estate so tendered shall not be sufficient, upon the sale thereof, to satisfy the debt, damages and costs, or shall be under any lien or incumbrance, so that the whole or a sufficiency thereof cannot be sold, a new *capias ad satisfaciendum* or *fieri facias* may issue for any balance, and if it shall appear from the marshal's return upon the *capias ad satisfaciendum*, that the estate surrendered in discharge of the body, is not sold by reason of any lien or incumbrance thereon, the clerk shall endorse upon any subsequent *capias ad satisfaciendum* that may be issued, that "estate shall not be received by the marshal in discharge of the body taken on this execution," and the marshal shall govern himself accordingly.

4. If estate to the value of the debt, damages and costs be not tendered to the marshal in discharge of the body of the person taken in execution, the marshal shall commit such person by delivering him or her to the jailer of the county in which such person resides, if he or she have a known place of residence within this district; or if not, to the jailer of the county in which such person is taken, unless such person request the marshal to commit him or her to the jail of any other county, in which case the marshal may, at his discretion, commit him or her to the jail of such county, by delivering him or her to the jailer thereof; provided that in all the cases aforesaid, if there be no jail or an insufficient jail, in the county in which the person resides or is taken, the marshal may commit him or her by delivering him or her to the jailer of any adjoining county convenient to the prisoner's residence, in case of a resident. It shall be the duty of the marshal to deliver to the jailer a copy of the process by virtue of which the prisoner is committed, and take the jailer's receipt for the body of the prisoner, which receipt he shall return with the process to the clerk's office.

5. Either the marshal or jailer in whose custody any person may be charged or taken in execution or surrendered by his or her special bail and prayed in custody in any civil action either at the suit of the United States or any other, may take of the prisoner a prison bounds bond, in a reasonable penalty, with one or more sufficient securities, to be judged of by the officer taking the same, with condition that the prisoner shall not go or depart out of the rules or limits of the prison, as established by the laws of the State, until he or she shall be discharged by due course of law, according to the laws of the United States; and upon such bond

being given, the marshal or jailer, as the case may be, shall permit the prisoner to go out of the prison and return at pleasure.

6. Where any writ of *fieri facias* has been issued or may hereafter issue upon a judgment for debt, damages or costs, or where estate shall be surrendered in discharge of the body taken upon a *ca. sa.* upon such judgment, the debtor or debtors, or any of them, may replevy the same for three months, by entering into bond with sufficient security, to be approved by the marshal, to pay the debt, damages and costs, and interest, if any, for which the execution issued, together with all costs, with interest at the rate of six per centum per annum upon the whole amount thereof, to the creditor, within three months; which replevin bond may be given at any time before the sale of the estate taken or surrendered in execution, and which bond shall be returned by the marshal with the execution, to the clerk's office, and shall have the force of a judgment. If part only of the defendants replevy, the plaintiff may sue out a new writ of *capias ad satisfaciendum* or *fieri facias* upon the judgment, if it shall at any time thereafter appear by the marshal's return upon a *fieri facias* issued on the replevin bond, that the obligors therein have not sufficient estate whereof to make the money required to be made by such *fieri facias*, upon which new execution the clerk shall endorse that it is not to be levied upon the defendants by name who have replevied, and shall also endorse the balance remaining due on such replevin bond; and the marshal shall proceed upon such new execution against the defendants who have not replevied, as if no replevin bond had been given; but shall not collect more money upon such new execution, than will be sufficient to satisfy such balance and the costs accruing upon such new execution.

7. If the debt, damages and costs shall not be paid within twenty days after the levying any writ of *fieri facias*, or surrender of estate in discharge of the body taken in execution, and the same be not replevied as provided in the sixth rule, the marshal, having first published notice of the time and place of sale, by advertising the same at the door of the court-house of the county in which the estate taken or surrendered lies, or was taken or surrendered, on some court day, and at some other public place near the residence of the debtor, if he or she reside within the county where the estate lies or was taken or surrendered, and if not, near the place where the estate lies or was taken or surrendered, at least ten days before the day of sale, shall proceed to sell at public auction, the estate so taken or surrendered in execution, or so much thereof as will be sufficient to satisfy the execution and all costs, for the best price the same will bring in current money of the United States; provided that if land be taken, or surrendered in execution, it shall be sold for what it will bring at three months' credit, and the marshal shall take of the purchaser or purchasers

bond with sufficient security, to be judged of by him, to pay the purchase money, with interest thereon, to the creditor, at the end of three months; which bond shall recite that it was given for estate sold under execution, and shall be returned by the marshal with the execution to the clerk's office, and shall have the force of a judgment. It shall be the duty of the marshal to sell first, the goods and chattels, if sufficient, and if not, secondly, the slaves, if sufficient, and if not, the lands, tenements and hereditaments, or so much thereof as is sufficient to satisfy the execution and costs; but he may, at the request of the debtor made in writing, sell either the one or the other, and in the order designated by the debtor, or may at the like request, sell any particular tract of land, or sell the land in one or more convenient and reasonable parcels.

8. If the owner of any goods, chattels or slaves, taken or surrendered in execution, shall desire the same to remain in his or her possession until the day of sale, and shall give bond to the creditor, with sufficient security, to be approved by the marshal, with condition that the debtor will have the goods, chattels and slaves forthcoming at the time and place of sale appointed by the marshal, the marshal shall take such bond and security, reciting therein the service of the execution and surrender of estate, if estate be surrendered in discharge of the body, and also the amount of principal, interest and costs due thereon, and shall thereupon permit the goods, chattels and slaves to remain with the debtor until the day of sale, at the debtor's risk; and if the owner of the goods, chattels or slaves, shall fail to deliver up the same to the marshal, according to the condition of the bond, or pay the money required to be made by the execution, together with all costs, the marshal shall return such bond and failure to comply with the condition thereof, together with the execution, to the clerk's office, to be there safely kept, and to have the force of a judgment.

9. If the owner of goods and chattels or slaves, fails to give a forthcoming bond, it shall be the duty of the marshal to provide for the support and safe-keeping of such goods, chattels and slaves, taken or surrendered in execution, and upon the return of the execution, the court will, upon motion of the marshal, settle and allow the reasonable compensation to which he may be entitled for the support and safe-keeping thereof, to be taxed in the bill of costs against the owner and retained by the marshal out of the money made by the sale of the goods, chattels and slaves; and the marshal may, in such cases, over and above the money required by the execution to be made, make as much more by sale of the goods, chattels and slaves as will be sufficient to cover his reasonable expences and charges for the support and safe-keeping of such goods, chattels and slaves, to be afterwards, on motion, settled and allowed by the court.

10. Writs of *capias ad satisfaciendum* and *fieri facias* may be issued upon replevin and forthcoming bonds, and bonds given upon the sale of land under execution against the obligors in such bonds, in like manner as upon original judgments; and where any obligor or obligors, or either of them, or obligee or obligees, or either of them, in any such bond, is dead or may hereafter die before satisfaction, execution may be sued out on such bond in the name of the surviving obligee or obligees, against the surviving obligor or obligors, as the case may be, without sueing out a *scire facias*.

11. The clerk shall endorse upon all executions issued upon replevin bonds, forthcoming bonds, and bonds given on the sale of land under execution, that "no security of any kind is to be taken," and the marshal shall govern himself accordingly, and shall proceed to sell the estate taken or surrendered in execution in such cases, for whatever the same will bring in ready money of the United States, and the marshal shall proceed in like manner upon all executions heretofore issued on such bonds not yet satisfied.

12. It shall be the duty of the marshal, upon all writs of *fieri facias* issued upon such bonds, to make the money required to be made thereby, first, of the estate of the principal obligor or obligors therein, if sufficient thereof for that purpose, is found.

13. When it shall appear by the marshal's return, that the estate or any part thereof, taken or surrendered in execution, remains in his custody unsold, a *venditioni exponas* shall issue, upon which he shall proceed as upon estate taken by writ of *fieri facias*.

14. Nothing in the foregoing Rules shall be construed so as to authorise the marshal to levy upon land, any execution issued by virtue of a judgment obtained upon a contract or cause of action prior to the 17th of December, 1792, nor so as to affect or in any manner prejudice any woman's right of dower in lands sold under execution, nor so as to authorise the marshal to levy any writ of *fieri facias* upon any goods and chattels, which, by the laws of the State now in force, are exempted from execution under process issued out of the courts of the State, all which are hereby excepted out of the operation of the foregoing rules.

15. In all sales of land by virtue of any execution, the marshal or his deputy who made the sale, shall, after the payment of the purchase money, convey to the purchaser or purchasers, his, her or their heirs and devisees, the land so sold, by deed of bargain and sale, reciting therein the names of the parties to the execution, the sale and purchase, and consideration paid; which deed the marshal or marshal's deputy as aforesaid, shall sign, seal and deliver, and shall acknowledge the same in the presence of at least two competent witnesses, or before some court or officer of the State, authorised by the laws thereof, to receive the acknowledgment of the grantor and admit the deed to record.

16. Motions to quash or correct erroneous or faulty replevin bonds and forthcoming bonds, may be made, upon giving to the adverse party or his attorney, reasonable notice of the grounds of the motion, or a rule to show cause may be made and served, in like manner, on the party or his attorney; and motions to quash the marshal's returns, and sales made under execution, upon the grounds of fraud or collusion, or misconduct of the officer, may be made on like notice to the adverse party or his attorney and the purchaser, or a rule to show cause may be made and served in like manner.

17. Orders and judgments for the payment of costs, made in the progress of a cause, before the rendition of the final judgment or decree and the allowance to witnesses, may, and shall be enforced by attachment, according to the principles and usages of the common law, as well against the parties as against their securities for costs; but no attachment shall issue until a rule to show cause be first served upon the party, or his attorney, or security for costs, as the case may be, against whom it is intended to proceed.

THOMAS TODD,
ROBERT TRIMBLE.

June 6th, 1825.

It was then moved and seconded to lay the said message on the table; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs Tarlton and Maupin, were as follows:

YEAS—Messrs. John J. Allin, Barbee, Carter, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, M'Millan, Mullens, Napier, Perrin, Porter, Sanders, Spalding, Stephens, Sterrett, Tarlton, Thomas, Wade, Ward, E. Watkins, Wilcoxen, Wingate and S. White—33.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cunningham, Davis, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Harvey, Hutchison, Logan, Marshall, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Street, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—51.

It was then moved and seconded to commit said message to the committee for courts of justice; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs Fletcher and Ward, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Crittenden, Cunningham, Davis, Duke, Dunlap, Dyer, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Harvey, Hutchison, Logan, Marshall, M'Connell, Morris, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Street, Richard Tay-

lor, Robert Taylor, Z. Taylor, Timberlake, Turner, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, A. White, Woodson and Yantis—52.

NAYS—Messrs. John J. Allin, Barbee, Carter, Chenowith, Coombs, Daniel, Elliston, Fletcher, Fulton, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, M'Millan, Mullens, Napier, Perrin, Porter, Sanders, Spalding, Stephens, Sterrett, Tarlton, Thomas, Wade, Ward, Wilcoxen, Wingate and S. White—32.

And then the house adjourned.

FRIDAY, DECEMBER 16, 1825.

A message was received from the Senate, announcing the passage of bills of the following titles: An act for the benefit of Martha Bridges; an act to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of the act re-organizing the Court of Appeals, passed 24th December, 1824, as creates the office of the 4th Judge of said court; an act for the benefit of Polly Toney; an act for the benefit of Jesse Wooldridge and others; an act to amend an act to establish a lunatic asylum and an act to provide for the expences of the lunatic asylum; an act authorising the trustees of Elizabethtown to make conveyances in certain cases. Also, the passage of bills which originated in this house of the following titles, to wit: An act authorising the trustees of county academies to draw their stock from the Bank of Kentucky; an act further to regulate the salaries of some of the officers of government; an act granting further powers to the trustees of the town of Louisville and for other purposes; an act to give to the county of Spencer a county court in January next; an act to authorise the trustees of the Franklin Academy, in the county of Mason, to sell part of the land belonging to said Academy; an act for the benefit of John Caldwell and Thomas Tobin; and their concurrence in the amendments proposed by this house to a bill from the Senate entitled "an act to alter the mode of taking in lists of taxable property."

Mr. Yantis read and laid on the table the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the joint committee appointed to receive the office of treasurer from the late, and deliver it to the present treasurer, be instructed to burn the auditor's warrants, issued in 1824.

And thereupon the rule of the house having been dispensed with, the same was taken up, twice read and adopted.

Ordered, That Mr. Yantis carry the said resolution to the Senate, and request their concurrence.

A bill from the Senate, entitled "an act further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands," was read a third time as amended.

Resolved, That the said bill as amended do pass, and that the title thereof be as aforesaid.

The yeas and nays being required thereon, by Messrs. Sterrett and Cox, were as follows:

YEAS—Messrs. James Allen, Barbee, Blackburn, Breck, Brown, Bruton, Coleman, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dyer, Elliston, Evans, Farmer, Ford, Gaines, Gibson, Gordon, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, Lackey, Lee, Logan, Marshall, Martin, Maupin, M'Cormas, M'Connell, Miller, M'Millan, Morris, Napier, New, Owings, Payne, Perrin, Porter, Prince, Reed, Samuel, Sanders, Skyles, Slaughter, Spalding, Street, Richard Taylor, Z. Taylor, Timberlake, Thomas, Underwood, Waddell, Wade, Ward, B. E. Watkins, E. Watkins, Wilcoxen, Wilson, Wingate, A. White, S. White, and Woodson—72.

NAYS—Messrs. Carter, Chenowith, Dunlap, Fulton, M'Clanahan, Mullens, Sterrett, Robert Taylor and Turner—9.

Ordered, That Mr. Underwood inform the Senate thereof, and request their concurrence in said amendments.

A bill for the benefit of the Judge of the tenth judicial district, was read a second time, and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Timberlake carry the said bill to the Senate, and request their concurrence.

Mr. Hardin, from the committee of ways and means, reported a resolution, which was twice read and concurred in, in the following words:

Resolved, That the Governor be respectfully requested to communicate to this house, the particular items of expenditure in the reception and entertaining of General Lafayette, and that the former communication is unsatisfactory.

Mr. Hardin, from the select committee appointed for that purpose, made the following report:

The select committee to which was referred a resolution directing an inquiry to be made whether the Court of Appeals, in obedience to the decision of the Supreme Court of the U. States, have decided the occupying claimant laws of this State null and void, and a violation of the constitution of the United States and the compact made with Virginia, have had that subject under consideration, and have given to it that attention which the importance of the subject required, and respectfully report thereupon:

That an act was passed by the Legislature of this State, on the 27th of February, 1797, entitled "an act concerning occupying claimants of land;" that the Judges composing the Court of Appeals, did, whenever the question came before them, either directly or incidentally, recognize the validity of the act of 1797. The decisions to that point are numerous, and can be found in 1st Bibb, pages 62 and 118; 2d Bibb 305; 3d Bibb 108, 298 and 373.

The people of Kentucky, from experience, were satisfied that the occupying claimant law of 1797, fell far short of doing them justice, and afforded a very inadequate remedy for the mischiefs which, from time to time, the occupants had to suffer. Different attempts were made in the Legislature to amend the occupant laws, which, for several successive years, were defeated; but the people persevered in their efforts, and on the 31st of January, 1812, an act was passed, entitled "an act to amend an act entitled an act concerning occupying claimants of land." When that act passed, great doubts were entertained of its constitutionality; the ablest men in the State were divided in opinion, and the Governor refused to approve and sign it, because he believed the enactment of it was forbidden by the compact between Kentucky and Virginia.

In 1815, spring term, the case of Fowler against Halbert, was brought before the Court of Appeals. Judges Boyle, Logan and Owsley, composed the court. In that case, the constitutionality of the occupant laws was presented for the direct decision of the court. A great diversity of opinion existed amongst the members of the bar, as to what would be the decision. The court met the question full and fair, and decided in favor of the occupants, and that the laws were constitutional; which decision is to be found in 4th Bibb, page 52.

The Court of Appeals, consisting of Boyle, Logan and Owsley part of the time, and of Boyle, Owsley and Rowan part, and of Boyle, Owsley and Mills the residue of the time, have given a number of decisions since the case of Fowler and Halbert, in favor of occupants being paid for their improvements, under the occupant laws; which decisions can be found in 4 Bibb, pages 395, 461 and 512; 1 Marshall, pages 42, 187, 137, 364, 388, 246, 381 and 444; 2 Marshall, pages 25 and 485; 3 Marshall, pages 15, 59, 141, 202, 286 and 510; 1 Littell, 272; 2 Littell, 208 and 280; 3 Littell, 470; 4 Littell, 315; 5 Littell, 20, 78, 187 and 305; Littell's Select Cases, 278; Monroe's Reports, four cases, pages 36, 229, 149 and 261; and at the present term, in the case of Bodley against Gaither. The committee would here remark, that a number of these decisions were given since the decision of the Supreme Court of the United States, of Green and Biddle. This committee are well aware, that the joint committee last session, raised for the purpose of enquiring into the conduct of the Judges, have, in strong terms, intimated that the Judges had, in effect, decided against the constitutionality of the occupant laws, and that the Governor, in his message at the present session, has insinuated the same thing; but the present committee invite the house and the people of Kentucky, to read the decisions here referred to, and decide who is right and who is wrong. The committee do not wish to be understood as casting any reflections

upon the joint committee at the last session, or the Governor at the present; one has greatly mistaken the import of the decisions, and the other has been badly advised.

It has been asserted, that the Court of Appeals will recognize the appellate jurisdiction of the Supreme Court of the United States, and consequently, that they will be obliged ultimately to submit to the doctrine contained in the case of Green and Biddle. If the Supreme Court has appellate jurisdiction, which is conceding all that is contended for, yet the fault would not be in the Judges, but in the forms of the two governments and their peculiar organization. But the committee have no hesitation in averring the fact to be, that the Judges, Boyle, Owsley and Mills, have denied the appellate jurisdiction of the Supreme Court, in relation to our occupant laws. A reference is here made to their decisions since that time, and particularly the case of Bodley and Gaither. When the grounds are examined upon which the appellate jurisdiction of the Supreme Court is based, it will be found to be, that the compact with Virginia is a contract, and that a violation of contract is prohibited by the constitution of the United States. The doctrine of the Court of Appeals is, that the legal obligation of the contract is the remedy, which is a part thereof. Now it is manifest, that there is no legal remedy to enforce a contract between sovereign powers; and hence it is sometimes called a treaty, and sometimes a compact. The only arbiter between sovereign States is arms, which has never been considered a legal remedy. That this is the doctrine of the Court of Appeals, the committee refer to the case of Jackson vs. Winn, 4 Littell 326, in which case it is expressly decided, that the compact with Virginia is no contract within the constitution of the United States, because there is no legal remedy to enforce it.

That the Judges of the Court of Appeals, to wit, Boyle, Owsley and Mills, instead of having manifested a spirit of hostility against the occupants, have, in the opinion of some over-suspicious persons, displayed too much of a kindred feeling and partiality towards them.

The Supreme Court of the United States, in the case of Green and Liter, reported in Cranch, and to be found in 3 Bibb 64, decided that a demandant in a writ of right could maintain the action, without ever having had actual possession. After that decision was given, the case of Speed and Buford came on for hearing before the Court of Appeals, in which case the same point was involved. The court refused to acknowledge the decision of the Supreme Court as authority, and decided that the demandant in a writ of right could not maintain his suit, unless he proved he once had actual possession of the land in controversy, which saved to the settlers and occupants their land, in all cases after twenty years' possession. The case is to be found in 3 Bibb 57. The

Federal Court of this State, has decided against the constitutionality of the limitation of seven years, to actions for land; but our Court of Appeals have, in the case of Slaughter and Kendall, to be found in 1 Marsh. 376, decided in favor of the law, and that the same was constitutional. Great doubts were at one time entertained, what should be the limitation to suits in chancery, upon adverse entries for land; whether it should be twenty or thirty years. The thirty years' limitation had most advocates. When the question was brought before the Court of Appeals, in the case of Reed and Glenn vs. Bullock, Littell's Select Cases, 512, that court decided in favor of the limitation of twenty years. The Supreme Court of the United States, in the case of Green and Liter, above referred to, decided that a settler upon land could not protect his possession by showing a better title in a stranger, and that the person who sued him did not own the land. The Court of Appeals, in the case of Colston and M'Vay, 1 Marsh. 250, decided that an occupant could protect himself by showing a better title in any other person.

The committee have ascertained, that the Court of Appeals have, in no one instance, in relation to the land claims of Kentucky, and the various suits which are brought to investigate the same, submitted to the decisions of the Supreme Court of the United States; but, on the contrary, the Supreme Court has changed her decisions to conform to the opinions of the Court of Appeals, in the following particulars: First, the Supreme Court has conformed to the decision of the Court of Appeals in relation to the limitation of twenty years, to a suit in chancery, upon adverse entries, in the case of Elmondorff vs. Taylor and others; and the court has also changed the doctrine laid down in Green and Liter; and in the case of Green and Lancaster, has decided that an occupant can set up the outstanding title of a stranger.

There is but one case, to wit, the Commonwealth vs. Morrison, decided by the Court of Appeals, which opinion was written by Judge Rowan, in which the appellate jurisdiction of the Supreme Court is acknowledged. In that opinion the court decided that the act of Congress chartering the Bank of the United States, was unconstitutional, over which opinion, when it declared an act of Congress void, the constitution of the United States gave the Supreme Court appellate jurisdiction.

Upon what authority the Governor, in his message, said that the Court of Appeals, composed of Judges Boyle, Owsley and Mills, was "a gate always ready to open at the summons of an enemy," this committee are at a loss to conjecture; for surely, such a heavy and grievous charge ought not to be made without some cause, and yet your committee are unable to find any.

The Governor, in his message, has said, that the new court "is a tower of strength, to resist the encroachments of the federal ju-

diciary." Your committee are unable to find any authority or decision of the new court, that would warrant this assertion. In the case of Dougherty vs. Triplett, the new court have strongly intimated an opinion, that the occupant cannot be paid for improvements made five years before the appointment of commissioners. This decision destroys every beneficial effect of all our occupant laws, and does not oppose "a tower of strength" to the doctrine laid down in the case of Green and Biddle. If the committee were to judge from the political life of the Chief Justice of that court, they would be authorized to draw a strong inference, that he was unfriendly to occupants in every point of view. The Journals will show, that he voted against the seven years' limitation act. In 1809, he voted against a bill to amend the occupant laws. In 1820, he voted against another occupant bill. The committee can hardly believe that these votes of Mr. Barry, and the decision in the case of Dougherty and Triplett, above referred to, can be the certain indications given by the new court to the Governor, that that court will be this "tower of strength;" and yet the committee can ascertain no other evidences furnished the Governor, to warrant him in making the assertion.

It is with great pain and anguish, that the committee have witnessed, for some years past, the encroachments of the federal judiciary, and the committee do most solemnly protest against the invasion of that department of the government of the United States, upon the sovereign rights of Kentucky. The committee deny the constitutional power of the federal Judges, to make such Rules as have been promulgated by that court; and they also deny the constitutional power of the Supreme Court to give a number of decisions lately pronounced by that tribunal, and particularly the unwarrantable interference of the Supreme Court in the internal policy of Kentucky. But how, and in what manner, the Judges, Boyle, Owsley and Mills, are to be visited, scourged and punished for the sins of the federal judiciary, the Governor has not informed the Legislature, unless broad and round assertions are taken for facts. Those Judges have neither aided nor abetted the federal judiciary in its decisions and rules, nor have they, in any way or shape, recognized their obligatory effect. The committee submit the following resolutions:

Resolved, That the Judges Boyle, Owsley and Mills, have, in the opinion of this house, uniformly sustained the constitutionality of the occupant law, and an assertion to the contrary is unfounded in fact.

Resolved, That Judges Boyle, Owsley and Mills are not accountable, in any way, for the acts of the federal judiciary.

The resolutions recommended by said committee were also twice read. It was then moved and seconded to amend the first resolution by adding thereto the following words:

Mr. Hardin, from the committee of ways and means, to whom was referred a bill making an appropriation to William Steele, reported the same without amendment.

Ordered, That said bill be laid on the table.

A message was received from the Senate, announcing their concurrence in the amendment proposed by this house, to a bill from the Senate, entitled "an act further to regulate the payment of the debt due the Commonwealth for the sale of vacant land."

Mr. Crittenden read and laid on the table the following resolution:

Resolved by the Senate and House of Representatives, That the resolution adopted for an indefinite adjournment on Saturday the 17th instant, be, and the same is hereby rescinded.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, on a bill for the appropriation of money, Mr. Underwood in the chair; and after some time spent therein, the Speaker resumed the chair, and Mr. Underwood reported that the committee had gone through the said bill with sundry amendments, which he handed in at the clerk's table.

And then the house adjourned.

SATURDAY, DECEMBER 17, 1825.

Mr. Underwood presented the petition of J. O. Beauchamp, representing that he is now confined in the jail of Franklin county, on the charge of murdering Solomon P. Sharp, and that from the influence of the friends and relatives of the deceased, and the prejudices existing in said county, he is fearful he cannot have a fair and impartial trial; and praying a change of venue.

Which was received, read and referred to a select committee of Messrs. Underwood, Ward and Maupin.

A message from the Senate, by Mr. Chilton, their Secretary:

Mr. Speaker—The Senate concur in a resolution from this house, directing the burning of the Auditor's warrants on the Treasury for the year 1824.

And then he withdrew.

The house then proceeded to consider the amendments proposed by the committee of the whole house, to a bill for the appropriation of money, several of which having been concurred in, the following amendment proposed by said committee, was then read as follows:

"To the Commissioners of the Lunatic Hospital, for the support of the lunatics during the ensuing year, seven thousand dollars."

And the question being taken on concurring in the said amendment, it was decided in the affirmative.

The yeas and nays being reqnired thereon by Messrs. Chenowith and Bruton, were as follows:

YEAS—Mr. Speaker, Messrs. Barbee, Blackburn, Breck, Breckinridge, Bruce, Carter, Coleman, Cowan, Cunningham, Davis, Dunlap, Farmer, Fletcher, Gaines, Gibson, Gordon, Hall, Hanson, Haskin, Hutchison, Lackey, Logan, Marshall, Mayes, M'Cormas, M'Connell, Morris, Napier, New, Owings, Owsley, Perrin, Prince, Reed, Samuel, Sanders, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Waddell, Wade, Walker, Ward, Wilson, A. White, Woodson and Yantis—53.

NAYS—Messrs. James Allen, Bainbridge, Bruton, Chenowith, Coombs, Cosby, Cox, Daniel, Dyer, Elliston, Evans, Ford, Grundy, Hansford, Harvey, James, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Mullens, Porter, Skyles, Spalding, Sterrett, Thomas, Underwood, B. E. Watkins, Wilcoxen, Wingate, and S. White—33

The following amendment was also read as follows:

"To the Trustees of the Kentucky Institution for the Deaf and Dumb, $3,000, for erecting a building for said institution, to be paid out of the literary fund."

And the question being taken on concurring in the said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Cosby and Sterrett, were as follows:

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Barbee, Breck, Breckinridge, Brown, Bruce, Coleman, Cowan, Cox, Cunningham, Dunlap, Dyer, Farmer, Fletcher, Gaines, Gordon, Haskin, Mayes, M'Cormas, M'Millan, Napier, New, Owings, Payne, Perrin, Porter, Prince, Samuel, Sanders, Street, Tarlton, Richard Taylor, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Waddell, Wade, Ward, Wilson, A. White and Woodson—44.

NAYS—Messrs. Blackburn, Bruton, Carter, Chenowith, Coombs, Cosby, Daniel, Elliston, Evans, Ford, Gibson, Grundy, Hall, Hansford, Hanson, Harvey, Hutchison, James, Lackey, Lee, Logan, Marshall, Martin, Maupin, M'Clanahan, M'Connell, Miller, Morris, Mullens, Owsley, Reed, Skyles, Spalding, Sterrett, Thomas, Turner, Underwood, Walker, B. E. Watkins, Wilcoxen, Wingate, S. White and Yantis—43.

The following amendment proposed by said committee, was read in the following words:

"To the Trustees of the town of Frankfort, the sum of $3,000, to be applied by them, after paying such of the pew-holders as had not relinquished their interest, in rebuilding the Church which was burnt while in the possession of the House of Representatives, *or in rebuilding the Capitol, as they may think most conducive to the interest of the people of Frankfort.*"

It was then moved and seconded to amend said amendment by expunging therefrom the words printed in *Italics;* and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Cox and Sterrett, were as follows, viz.

YEAS—Messrs. James Allen, Bainbridge, Barbee, Breck, Bruton, Coombs, Cosby, Cowan, Cox, Dyer, Gordon, Grundy, Hall, Haskin, James, Martin, Maupin, Miller, M'Millan, Morris, Mul-

lens, Napier, New, Owsley, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Turner, Underwood, Walker, B. E. Watkins, E. Watkins and S. White—36.

Nays—Mr. Speaker, Messrs. Blackburn, Breckinridge, Brown, Bruce, Carter, Chenowith, Coleman, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Fletcher, Ford, Fulton, Gaines, Gibson, Green, Hanson, Harvey, Hutchison, Lackey, Lee, Logan, Marshall, Mayes, M'Clanahan, M'Connell, Nuttall, Owings, Payne, Perrin, Prince, Reed, Samuel, Sanders, Street, Tarlton, Robert Taylor, Timberlake, Thomasson, True, Waddell, Ward, Wilson, Wingate, A. White, Woodson and Yantis—52.

The question was then taken upon concurring in the said amendment, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Sterrett and Bainbridge, were as follows, viz:

Yeas—Mr. Speaker, Messrs. Blackburn, Breck, Brown, Bruce, Carter, Chenowith, Coleman, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Farmer, Fletcher, Ford, Fulton, Gaines, Green, Hanson, Harvey, Haskin, Hutchison, Lackey, Lee, Logan, Marshall, Mayes, M'Clanahan, M'Cormas, M'Connell, Nuttall, Owings, Payne, Perrin, Porter, Prince, Reed, Samuel, Sanders, Street, Tarlton, Robert Taylor, Timberlake, Thomasson, True, Turner, Waddell, Ward, E. Watkins, Wilson, Wingate, A. White, Woodson and Yantis—57.

Nays—Messrs. James Allen, Bainbridge, Barbee, Breckinridge, Bruton, Coombs, Cosby, Cowan, Cox, Dyer, Gordon, Grundy, Hall, James, Martin, Maupin, M'Millan, Morris, Mullens, New, Owsley, Skyles, Slaughter, Spalding, Sterrett, Z. Taylor, Thomas, Underwood, Walker, B. E. Watkins and S. White—31.

Mr. Brown then moved further to amend said bill, by attaching thereto the following item:

"To Captain Hall, commander, and others, owners of the Steam Boat Mechanic, $425 for conveying General Lafayette from Line Island, to the point where the aforesaid boat sunk."

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by Messrs. Brown and Thomasson, were as follows:

Yeas—Mr. Speaker, Messrs. Breck, Brown, Bruce, Carter, Coleman, Crittenden, Davis, Farmer, Fletcher, Gaines, Haskin, Lackey, Logan, Maupin, Mayes, M'Cormas, Morris, New, Nuttall, Owings, Payne, Perrin, Prince, Samuel, Sanders, Skyles, Sterrett, Thomas, Thomasson, Waddell and E. Watkins—32.

Nays—Messrs. James Allen, Barbee, Bruton, Chenowith, Coombs, Cosby, Cowan, Cox, Duke, Dunlap, Dyer, Elliston, Evans, Ford, Fulton, Gordon, Grundy, Hall, Hanson, Harvey, Hutchison, James, Lee, Marshall, Martin, M'Clanahan, M'Millan,

Mullens, Owsley, Reed, Slaughter, Spalding, Street, Robert Taylor, Z. Taylor, Timberlake, Turner, Walker, Ward, B. E. Watkins, Wilson, Wingate, A. White, S. White, Woodson and Yantis—46.

The said bill having been further amended, was, with the amendments, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Turner carry the said bill to the Senate, and request their concurrence.

The house took up for consideration the resolution laid on the table on yesterday by Mr. Crittenden, for rescinding the resolution for an adjournment of the General Assembly, which being twice read, was amended, and concurred in, in the following words:

Resolved by the Senate and House of Representatives, That the resolution adopted by them for an indefinite adjournment, on Saturday the 17th instant, be, and the same is hereby rescinded, and that when they adjourn on Wednesday next they will adjourn without day.

The yeas and nays being required on the adoption of said resolution by Messrs. Ward and Crittenden, were as follows, viz:

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Brown, Bruce, Chenowith, Coleman, Coombs, Cosby, Crittenden, Davis, Duke, Farmer, Fletcher, Ford, Fulton, Gordon, Green, Hanson, Harvey, James, Lee, Logan, Martin, Maupin, Mayes, M'Clanahan, M'Cormas, M'Connell, M'Millan, Morris, Napier, Porter, Samuel, Sanders, Skyles, Slaughter, Street, Robert Taylor, Timberlake, Thomasson, Underwood, Waddell, E. Watkins and Woodson—46.

NAYS—Messrs. James Allen, Barbee, Breckinridge, Bruton, Carter, Cowan, Cox, Cunningham, Daniel, Dunlap, Dyer, Elliston, Evans, Gaines, Gibson, Grundy, Hall, Hansford, Haskin, Hutchison, Marshall, Miller, Mullens, Nuttall, Owings, Owsley, Payne, Perrin, Prince, Spalding, Sterrett, Tarlton, Z. Taylor, Thomas, Turner, Walker, Ward, B. E. Watkins, Wingate, A. White and S. White—41.

Ordered, That Mr. Crittenden carry the said resolution to the Senate, and request their concurrence.

Mr. Ford, from the select committee to whom was referred a bill to provide for running and marking the line between the counties of Shelby and Spencer, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Ford carry the said bill to the Senate, and request their concurrence.

Mr. Woodson, from the joint committee appointed to examine the Bank of Kentucky, made the following report:

The joint committee appointed to examine the Bank of Kentucky, respectfully report, that they have received from the President thereof, a statement herewith returned, marked A, containing a correct representation of the situation of that institution.

From the Senate,

THOMAS C. HOWARD,
BEN. SELBY,
WILLIAM WOOD,
CHILTON ALLAN.

From the House of Representatives,

S. H. WOODSON,
JOHN P. GAINES,
HENRY TIMBERLAKE,
WILLIAM GORDON,
JAMES WILSON.

(A.)

A statement of the situation of the Bank of Kentucky, Dec. 14, 1825.

DEBTOR.

Due to other Banks,	9,242	59
Notes issued,	111,930	64
Surplus profits,	200,497	84
Current profits since 1st July,	26,122	33
Stock,	1,030,134	
Do. residuary,	183,540	
Treasurer United States,	27,363	12
Individuals,	241,982	06
	$1,830,812	58
Deposites in Kentucky notes, due to individuals,	34,505	14
Do. Treasurer United States,	27,363	12
Do. Specie, due to individuals,	14,913	32
	$76,781	58

CREDITOR.

Current expences,	10,190	59
Due from other Banks,	4,047	93

Real estate, - - - - -			367,341 27
Due from individuals, - - -			1,286.863 14
Defalcations at branches, - - -			29,870 11
Cash on hand—Specie, -	25,998 89		
Notes of other banks,	6,435 25		
Kentucky notes,	111 75		
Commonwealth's notes,	99,953 65	—132,499 54	
			$1,830,812 58

The Bank holds notes for rent of property, which have not been taken into the general accounts, amounting to $10,131 80.

Mr. Breck, from the select committee to whom was referred a bill to alter and amend the law in relation to executors and administrators, reported the same without amendment.

The said bill was then ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Breck carry the said bill to the Senate, and request their concurrence.

Mr. Marshall, from the joint committee appointed to examine the Bank of the Commonwealth, made the following report:

The joint committee of the Senate and House of Representatives, appointed to examine the Bank of the Commonwealth of Kentucky, beg leave to make the following report:

Your committee have, through the medium of the officers of the Bank, on whose intelligence they most implicitly rely, obtained an exposition of the situation of the Commonwealth's Bank of Kentucky, on 30th November, 1825, to which they refer, and which is herewith presented, marked A.

From the Senate,

YOUNG EWING, *Chairman*.
JAMES ALLEN,
MARTIN BEATY.

From the House of Representatives,

M. P. MARSHALL, *Ch'm*.
S. M. BROWN,
SAML. WHITE,
JOHN P. GAINES,
THO. C. OWINGS,
JAMES TARLETON.

(A.)

Statement of the Bank of the Commonwealth of Kentucky, for the Committee, 30th November, 1825.

DEBTOR.

To Notes payable,		$241,664 18
Literary Fund,		11,496 92
Amount due Branch Bank in Hartford,		4,308 55
Ditto, Branch Bank in Falmouth,		22,659 41
Ditto, Branch Bank in Flemingsburg,		18,791 26
Ditto, Branch Bank in Harrodsburg,		19,769 46
Ditto, Branch Bank in Louisville,		30,406 54
Ditto, Branch Bank in Winchester,		39,356 24
Ditto, Branch Bank in Somerset,		13,707 88
Ditto, Branch Bank in Greensburg,		25,587 09
Stock,		334,368 63
Legislative deposites,		422,212 16
Discounts, since 10th October last,		1,019 86
Individual depositors,		51,264 03
		$1,236,612 22

CREDITOR.

By Notes Discounted for Shelby county,	$45,085		
Ditto, Franklin,	66,307		
Ditto, Woodford,	36,511		
Ditto, Henry,	20,267		
Ditto, Gallatin & Owen,	12,705		180,875 00
By Notes in suit for Shelby county,	30,955		
Ditto, Franklin,	13,666		
Ditto, Woodford,	7,622		
Ditto, Henry,	2,989		
Ditto, Gallatin and Owen,	3,824		59,056 00
By Real estate,			1,729 89
Amount due from Branch Bank in Bowlinggreen,			6,483 96
Ditto, Branch Bank in Mountsterling,			3,092 49
Ditto, Branch Bank in Princeton,			1,226 53
Ditto, Branch Bank in Lexington,			14,564 63
Notes withdrawn, (boxed up)			115,907 75
Cash on hand,			823,417 98
General expences, (since 10th October last,)			95 19
Amount due from the Treasurer,			30,162 80
			$1,236,612 22

Mr. Hall, from the joint committee appointed to examine and report the situation of the Treasurer's office, made a report.

Ordered, That the said report be re-committed to a select committee of Messrs. James Allen, M'Connell, Wilson, Grundy, Dyer and Bruton.

Mr. Payne, from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles, and had found the same truly enrolled, viz. An act concerning the town of Bowlinggreen; an act allowing justices of the peace a copy of the Digest of the Statutes of Kentucky in certain cases; an act to amend an act entitled "an act further to regulate the town of Flemingsburg;" an act further to regulate the election precincts of Breckinridge county; an act to amend the laws concerning the town of Columbus, at the Iron Banks; an act to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth," approved December 30th, 1824; an act to release lands belonging to Seminaries of learning from forfeiture, and to exempt them from the payment of taxes; an act to amend the law requiring clerks of courts to make out complete records in certain cases; an act further to regulate the Bank of Kentucky; an act to allow an additional justice of the peace to the county of Washington; an act for the benefit of John Moore and others; an act to legalize certain proceedings of the Ohio county court, at their November term, 1825; an act to authorize Narcissa to contract for her freedom; an act to allow two additional justices of the peace to the county of Meade; an act to allow James Howe to build a mill-dam across Little Sandy river; an act to change the sessions of the Lincoln and Casey circuit courts; an act for the benefit of John Cottrell and others; an act for the appointment of trustees for the town of Pikeville, in Monroe county; an act to allow an additional constable to Henry county; an act further to regulate the Jefferson Seminary; an act further to regulate the collection of debts due this Commonwealth; an act for the benefit of Richard T. Jones and wife; an act for the benefit of John Smoot; an act to allow the Independent Banks further time to settle their concerns, and for other purposes; an act for the benefit of William N. Potts; an act for the benefit of William B. Harrison; an act to repeal, in part, an act entitled "an act for the benefit of Zachary Conclude;" an act to amend the law in relation to delivery bonds; an act to compel owners and occupiers of land to fill up, or enclose or cover, pits and wells fallen into disuse; an act for the benefit of Henry Harlowe and others; an act for the benefit of Eliza H. Eaches; an act for the benefit of Elijah Adkins; an act to alter the mode of appointing trustees to the Fleming Academy; an act to establish an election precinct in the county of Shelby; an act to alter the times of holding certain circuit courts; an act to authorize publications, &c. in certain newspapers; an act to change the time of holding the Muhlenberg county courts; an act to authorize a sale of part of the public square in Hartford; an act establishing the town of Williamstown, in Grant county; an act further to regulate the salaries of some of the officers of government; resolutions in

relation to an amendment of the constitution of the United States, proposed by the State of Georgia; an act authorizing the trustees of county Academies to draw their stock from the Bank of Kentucky; an act for the benefit of John Caldwell and Thomas Tobin; an act to authorize the trustees of the Franklin Academy, in the county of Mason, to sell part of the land belonging to said Academy; an act to give the county of Spencer a county court in January next; an act granting further powers to the trustees of the town of Louisville, and for other purposes; and an act for the benefit of Paul Barnett.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Payne inform the Senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Underwood—1. A bill to change the venue in the case of Jereboam O. Beauchamp.

By Mr. Brown—2. A bill to amend the law incorporating the Louisville and Portland Canal Company.

By Mr. Breck—3. A bill to exempt the citizens of Clay and part of Laurel counties, from paying toll at the turnpike gate on the salt-works road.

And by Mr. Underwood—4. A bill to declare Red river navigable.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second, third and fourth bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Underwood carry the said bills to the Senate, and request their concurrence.

Mr. M'Connell, from the select committee to whom was referred the amendments proposed by the Senate, to a bill which originated in this house, entitled "an act to establish election precincts in certain counties," reported the same with sundry amendments; which being twice read, were concurred in.

Ordered, That Mr. M'Connell inform the Senate thereof, and request their concurrence in said amendments.

Mr. M'Connell, from the select committee to whom was referred a bill to regulate the laws in relation to working on public roads, reported the same with sundry amendments; which being twice read, were concurred in. The said bill and amendments are in the following words:

A Bill to regulate the Laws in relation to working upon Public Roads.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be the duty of the respective county courts

of this Commonwealth, at their April term next, and at their April term in each and every year thereafter, unless a circuit court shall be holden in any county in that month, then in the month of May next, and in the month of April or May in each and every year thereafter, by a committee of their own body, or otherwise, to proceed to ascertain, as near as may be, the amount of money necessary to keep in repair, for one year thereafter, the public roads in said county, and to make such additional repairs and improvements on said roads, or on any one or more of them, as by said court shall be deemed expedient and necessary, and to provide for the opening, keeping in repair and improving such other roads as it shall be thought expedient and important to the community, or to the convenience and interest of the county, by said court, should be opened; and the said courts may, at their respective county courts in April or May, but at no other term thereafter, direct any new road or roads, in their respective counties, to be opened, and may, at the same term, direct any road or roads theretofore opened in said county, to be discontinued.

§ 2. It shall be the duty of said courts respectively, having so ascertained the amount necessary for keeping the public roads in repair, and for opening new ones, &c. as in the first section of this act is mentioned, to deduct therefrom the amount which will result from a poll tax upon all the white male inhabitants of the county, over —— and under —— years of age, and upon all males amongst the free negroes and free mulattoes within the age aforesaid, equal to the value of two days' work of a common laborer in such county; and all the white male inhabitants of said county, and all the males amongst the free negroes and mulattoes aforesaid, resident in said county on the first day of April in each and every year, are hereby declared subject to a poll tax, to the extent aforesaid, for the use of roads.

§ 3. The said courts respectively having so deducted the amount of the poll tax aforesaid, shall provide for raising the residue of the amount so required, by laying a tax *ad valorem*, not in any instance to exceed six and a fourth cents upon each one hundred dollars worth of property, upon all the following species of property, to wit: All lands situate in such county, with their improvements and appurtenances; town lots in all towns in which the same are not taxed by the trustees of such town, with their improvements and appurtenances; all slaves, of every sex and age; all horses, cattle, sheep and hogs; all jacks, jinneys and mules; all wagons, carts, and wheel carriages of every description, whether made for profit, pleasure or any other purpose; all goods, wares and merchandize, of every named description, brought into such county, from any other state or county, to be sold by wholesale or retail, by any person owning, holding or possessing a

wholesale or retail store, to be estimated and valued at their prime cost.

§ 4. The lands hereby made subject to taxation, shall be entered and paid for by the tenant in possession, whether he be owner, tenant, squatter, or otherwise have the same in possession; and where a tenant shall, by this law, be compelled to pay the taxes upon lands for which he has stipulated to pay rent, he shall be allowed to retain and deduct out of the amount of rent so by him stipulated to be paid, the value of the road tax so paid by him, or shall be allowed to recover the value of such taxes from his landlord, by warrant or suit for so much money paid for the use of such landlord; and each person so in possession shall list the land for taxation, to the full extent of the boundary of such possession, and all lands not in the actual occupancy or possession of any person, shall not be subject to taxation under this act, until the same shall have been so actually occupied or possessed.

§ 5. It shall be the duty of the clerks of the county courts respectively, to furnish the commissioner of tax, in each and every year, at the time of his appointment, or as soon thereafter as may be, with a list of all the overseers of roads in his county, stating therein the names of the hands allotted to each overseer, or the boundaries including the hands laid off for each overseer, and the particular road or part of a road of which he is the overseer; and in those cases in which two or more commissioners of the revenue may, in any one year, be appointed in any county, the clerk shall furnish each commissioner with the lists aforesaid, within the particular division of the county allotted to him, and it shall be the duty of all commissioners to call upon the clerks of the respective county courts, in which they are so commissioners, for the lists aforesaid, within ten days after his or their appointment. And the said commissioner shall, in addition to the tax-book now required by him to be made out, make out a book of a similar form, preserving a column for titheables, a column for each species of property which by this act is made subject to taxation, and a column for the aggregate amount of value, and shall in all respects adapt it to the purposes of listing and showing the value of the taxable property under this law.

§ 6. The said commissioners, respectively, shall, at the time of listing and estimating the property subject to taxation by the revenue laws of this State, also list and value, in the same manner, all property subject to a road tax, under this act; and each and every person liable to taxation, shall give in a list of all property hereby made subject to taxation, and shall make oath in the same manner, and be subject to like fines and penalties for giving in a false or fraudulent list, or for failing to give in a list as prescribed by the said revenue laws of this State, and shall be proceeded against in the same manner as delinquents under said laws.

§ 7. That the commissioner shall list all property subject to a road tax under this act, in the said additional book, and instead of making out and listing the names of persons subject to taxation, alphabetically, he shall list the names of all persons within the bounds of the hands allotted to any one overseer, on one or more pages, together with the name of such overseer written at the head of the page, and in all other respects the commissioners shall conform to the rules and regulations prescribed by the said revenue laws of this State, in relation to taking in lists of taxable property; and for a failure or neglect of duty on the part of any commissioner, in relation to any of the provisions of this act, he shall be subject to the like fines and forfeitures, recoverable in the same manner, as provided by the said revenue laws.

§ 8. The said commissioner shall, at the time he returns his list book under the revenue laws, also return to the clerk of the county court, in good order, his list book made out under this act, which shall be carefully preserved by said clerk, and it shall be the duty of said clerk, within sixty days after said book shall have been returned, in each and every year, to make out and furnish to the sheriff of his county, who shall call upon him for the same, for each overseer, a true copy of so much of said book as includes the names, property, &c. of all the hands so allotted to such overseer, as listed in said book, which shall be delivered to each of the said overseers, respectively, by the sheriff or his deputy, within thirty days after he shall have been furnished with the same; and the sheriff or deputy delivering the said lists, or any of them, shall keep an account of the time when, and the overseer to whom the same was by him or them so delivered, and shall make an affidavit before some justice of the peace, to the truth of such account, and file the same with the clerk, which shall be evidence of such overseer's having received the same at the time therein mentioned.

§ 9. The said overseers respectively, shall, from time to time, after receiving such lists, call upon the persons therein named, and give them at least three days' notice of his intention to work upon the road of which he is overseer, and require such persons severally to appear on the day and at the place by him named, with the tools which shall by him be designated, to work upon the road to which they shall belong; and every person hereby subject to a road tax, may discharge the whole of such tax by labor on the said public roads, either by themselves or by sending one or more able-bodied hands as substitutes, with the proper implements for opening or improving such road, as directed by the overseer; and every person shall be allowed a credit upon the amount of taxes due from him, for each and every day's work he may perform, equal to the amount fixed upon by the county court of his

county, at their April or May term next preceding, as the hire or wages per day of a common laborer in such county.

§ 10. The overseers shall, at all times when they warn in the hands on the lists respectively furnished them, warn in all such other hands of the description in this act, as they shall find resident within the bounds so allotted him as overseer, whose names may not be on such list, and shall enter the names of such person or persons on his list, and charge them with the poll tax of that year, and require him or them to discharge the same as other hands, provided such hands shall have been resident in the bounds of such overseer at least ten days, before he or they shall be liable to be thus charged. The notice required to be given by the overseer need not be in writing; but each overseer shall, from time to time, make out a list or roll of his hands, and shall call the same in the morning and evening of each day he may work on the roads, and shall also keep an account current with said hands, and when he shall so call the roll in the evening, he shall make proclamation of the amount yet due for that year from each person subject to road tax within his precinct, and when any person shall have fully discharged the road tax due by him for any one year, he shall also, before the other hands, make proclamation of it, and shall strike the name of such person from the roll, and give such person a receipt in full for his road tax of that year, should the same be required of him.

§ 11. No person shall be entitled to a credit for a full day's work, who shall not appear on the road at the place designated by the overseer, with the proper implements of labor, in the morning of each day set apart for working on roads, at the time the sun shall be one hour high, and continue to labor faithfully and diligently until the sun shall be within one hour of setting in the evening; and where any person shall come later in the morning, or depart earlier in the evening, the overseer shall deduct at the rate of one sixth part of a day's wages for every hour he may thus lose; and should any hand pretending to labor on a public road, fail diligently and faithfully to labor on said road while present, and to do that which may be required of him by the overseer, and which shall in itself be reasonable and right that he should do in relation to the opening or improving such road, it shall be the duty of such overseer to report him to the next county court of his county, and state in such report in what instances such hand has been refractory, and the court shall thereupon issue a summons against such offender, to answer to the said complaint, and upon the same being returned executed, or upon the defendant's waiving service, shall proceed to hear such offender on his oath, and also, any other testimony that may be adduced, for or against him, and upon being satisfied that such person has offended against the provisions of this act, such court shall proceed to enter up a

fine against him, of not less than one, nor more than ten dollars, agreeably to the nature of the offence; and in all instances in which such offender may be a slave or substitute, the overseer shall also report to the court that fact and the name of the person who sent or employed him, and the summons shall issue and proceedings be had against such person, and in cases where the substitute is a free person, against him also; and upon the same being returned executed upon the principal and substitute, the court shall, at the time of entering the fine against the principal, also, on his motion, enter judgment in his favor against such substitute for the amount of the fine and all costs; and where such summons shall be returned, as to either principal or substitute, that he is no inhabitant of the county, the same, as to him, shall abate, and the proceedings, as against the other, shall continue; and in that case, such judgment as may be rendered against the defendant, shall be in favor of the Commonwealth.

§ 12. The proceedings against all delinquents under this act, shall be in the name of the Commonwealth, and all fines assessed under its provisions shall be paid over to the county treasurer hereinafter to be named, and shall be appropriated towards opening and keeping in repair the public roads of the county in which the same may be assessed; and in all instances in which judgment shall be given against an offender, under the provisions of this act, he shall pay costs, and in all instances in which the court shall adjudge that there was no reasonable cause for the proceeding, the person giving the information shall pay costs; nevertheless, any person on whose information any proceeding under this act may be had against a delinquent or delinquents, shall be a competent witness, and all supposed interest shall go to his credibility, and the court may, at any term, direct proceedings to be had for any offence against this act, committed within twelve months next and before the institution of such proceedings, and may, for good cause shown, continue any proceeding at any term of the court, and may award, *alias* and *pluries* summons, &c. to issue, and take all such other steps as are usual in courts to a fair hearing and just decision of all cases brought before them under the provisions of this act; and it shall be the duty of the attorney for the county to give his special attention to all proceedings coming within the purview of this act, and to see, as far as practicable, that its provisions be carried into effect.

§ 13. The county courts of this Commonwealth shall respectively, at their April or May term in each and every year, choose and appoint a person to be called the County Treasurer, who shall not be one of their own body, nor a practising lawyer, either in the circuit or county court of the county, nor the clerk of such county court, and who shall be a citizen of said county, and reside within —— miles of the court house thereof, who shall, at the time of his

appointment, enter into bond, in such county court, with two or more sufficient securities, to be approved of by said court, in the penalty of at least ten thousand dollars, payable to the Commonwealth of Kentucky, and conditioned for the faithful performance of all the duties required of him as county treasurer by this act, or which may hereafter be prescribed to county treasurers by law; and for any and every breach of the condition of such bond, the party injured, or in case such breach affect the county, then the attorney for the county, in the name of the Commonwealth, may procure a rule of the court of that county to be made against such treasurer and his securities, calling upon such treasurer to answer for any particular breach or breaches of said bond, to be set forth in such rule of court; and upon the same being returned executed, at least five days before the term at which it may be tried, the said court shall proceed to hear and determine the same in a summary way, without jury; but upon the application or request of either party, before the trial shall have been gone into, where the amount claimed shall exceed twenty dollars, the court shall direct a jury to be summoned, as in other cases of jury trial; and in either case, the court or jury shall hear the evidence and determine the controversy without pleadings in writing, unless it shall appear to said court, important to the justice of the case that a written statement of the claim and defence shall be made out, and in such case said court shall direct the same; but in making out such statements no particular form shall be necessary, provided the same contain substantially the nature of such claim or defence; and in all cases of proceeding on the treasurer's bond, where it shall appear to the court, either from the finding of a jury or from the evidence before the court, that the party prosecuting such rule is entitled to a judgment, the court shall enter judgment for such party against the treasurer, and if his securities be included in such rule, then against him and his securities, for such sum as such party shall be entitled to, with costs; and if such party fail, or be cast in the proceedings, then in favor of such treasurer and his security for costs; and the clerk, in taxing costs in either case, shall tax an attorney's fee, if one shall have been employed, unless such proceedings shall be had in the name of the Commonwealth, for the use of such county, and in that case no costs shall be taxed against the county: *Provided*, that no such proceedings as last mentioned shall be had without the leave or direction of the court previously had or given; and every application on the part of an individual, shall be granted of course, where the costs shall be properly secured, if he be a non-resident, or if the court shall in other cases believe that such applicant ought to give security for costs; and the court shall in no instance require security for costs, of a resident citizen, merely because he

is poor, but may do so where there is good cause to suspect that the proceedings are merely vexatious, and without foundation.

§ 14. Upon the failure or refusal of any person or persons to discharge the amount of his, her or their tax, in labor upon the public roads, as herein provided for, it shall be the duty of each overseer, at the court of claims to be holden for his county in each and every year, to return to the court the list so received by him the year preceding, with an account showing the balance due from each individual on his list, which shall be preserved by said court, and they shall, on or before the first day of January thereafter, make out a list of all the balances due from the delinquents, as shown by the return of the overseers, and furnish the same to the sheriff of his county, and take his duplicate receipt therefor, one of which he shall furnish to the county treasurer, and the other shall by him be preserved, and the said sheriff shall proceed to collect the said balances by distress and sale, in the same manner as the county levy is now by law directed to be collected, and shall, on or before the first day of October in each and every year, account for and pay over to the county treasurer, all sums of money so by him collected, or for which he may be liable on account of any failure or neglect of duty in his efforts to collect the same.

§ 15. The clerk shall, in all instances in which fines are assessed under the provisions of this act, certify the same to the treasurer, and the treasurer shall enter in a book to be by him kept for that purpose, the amount of all deliquencies for which the sheriff shall receipt as provided for in the 13th section of this act, and also all fines and forfeitures so certified to him by the clerk of the county court, and the clerk shall keep a like book and make the like entries, which are to operate as a check upon each other, and also upon the sheriff; and the sheriff shall pay over any money to the treasurer, which shall by him be collected under this act, whether the same be for balances returned by overseers, or for any fine imposed, or for other cause arising under the provisions of this act, where the moneys so collected shall be for the use of the county. And upon the payment of any money by the sheriff to the treasurer, he shall take therefor the treasurer's receipt, stating on what particular account the money was so paid, and shall file the same with the clerk of the county court, who shall thereupon give to such sheriff a quietus for that amount, and shall also enter upon his book a credit to the sheriff for that particular item and amount for which he shall so produce the treasurer's receipt.

§ 16. In all instances in which the sheriff shall, by the provisions of this act, have collected money, and shall not, within ten days after the same is due by law, pay the same over to the treasurer, or shall otherwise have become liable for the same, by failing to do his duty in collecting the same, and in all instances in which he

shall fail for the space of twenty days after the return day of any execution upon any judgment directed to be given under this act, where such execution shall be for the use or benefit of the county, to return the same, the treasurer for the time being shall proceed by motion in the name of "the Treasurer of ——— County," (supplying the name, instead of the blank,) by motion against such sheriff, in the court of the county, without notice, if the said sheriff shall then be in court, and being called upon, can show no good cause why the motion shall be continued, to recover the amount of all such sums of money so collected, or the amount of such execution so failed to be returned, with twenty per cent. damages thereon; and if good cause is shown why said court shall not then proceed to enter judgment, the motion shall be entered and continued until the next term; and in case such sheriff be not in court, the treasurer shall cause a rule to be served upon him, as provided for in other cases by this act, and upon hearing the same, shall, if they be satisfied of the delinquency of such sheriff, proceed to enter judgment as is above provided, with costs; and if any treasurer shall proceed against a sheriff, under the provisions of this act, without having first obtained the leave or order of said court to do so, and shall fail in such proceeding, he shall pay all costs out of his own proper estate, and where he shall have obtained the order of the court for such proceedings, and shall fail, no costs shall be taxed against him; and in no instance whatever, shall costs be adjudged against the county.

§ 17. The sheriff of each county shall, at the court of claims of his county, in each and every year, return to such court, a list of delinquents for that year, with the sums respectively due from each delinquent, and the reasons of such delinquency, as "no property," "removed," or otherwise, as the case may be; and shall make oath before such court, or forward his affidavit in writing, that he has used due diligence to collect each of the several sums named on such delinquent list, and that to the best of his belief the causes of delinquency as therein set forth are true; and no court shall receive any delinquent list, to which the sheriff shall not make oath as aforesaid, and in all instances of removal, the sheriff shall, where the fact shall be known to him, return to what county such delinquent has removed, if to any county in this State; and if the court shall be satisfied that the delinquent has removed to another State, they shall cause his name to be stricken from the list; and upon all sums not allowed the sheiff for delinquents, the sheriff shall be liable on motion of the treasurer. And the clerk shall, within ten days after such delinquent list shall have been allowed, enter the same on his check book, to the credit of such sheriff, and shall also certify the same to the treasurer, who shall, on his check book, give a like credit, and proceed for the balance due from such sheriff, if any; and if the

sheriff shall fail at the time herein required, to return his delinquent list, the treasurer shall proceed for the whole sum unpaid for that year, and upon the trial of such motion, the sheriff may produce and swear to his delinquent list; and should there appear to be nothing due the treasury on account of allowing such delinquent list at that court, the sheriff shall pay the costs of the proceeding.

§ 18. The county treasurer shall, at the April or May term, in each and every year after his appointment, report to the county court of his county, the true situation of the county treasury, and how much has been received in, and paid out of said treasury during the past year, and upon what particular roads the moneys have been applied, stating how much has been applied on each particular overseer's precinct, of any given road; and the clerk of the county court shall also make a report of the situation of the treasury at the same time, and also report the balance, if any, in the hands of the sheriff; and the court shall appoint a committee to settle with the treasurer, and the balance found due, either in favor or against such treasurer, shall be entered of record, and charged by the clerk for or against the treasurer, and shall be noticed in the report of the clerk the next year; and at the time that any treasurer shall make his report, as herein before provided for, he shall produce, in court, his books and all other documents, and every thing else belonging to his office, if required; and shall pay into court, if required, the amount of money remaining in his hands as treasurer, to be taken care of by the clerk of the county court, and paid over to such other treasurer as the court shall appoint, and when paid over to such new treasurer, the clerk shall take his receipt for the same, and upon a new treasurer being elected, he shall receive all books, documents, &c. belonging to said office.

§ 19. The county court shall, at their April or May term in each and every year, when any moneys shall be in the treasury, direct upon what roads in their respective counties, the moneys shall be laid out, and shall specially direct what improvements shall be made on such roads, and the minimum value of such improvements; and the overseer of any particular part of a road, directed to be improved, shall receive from the clerk of the county court, on application to be made, a copy of so much of said order as relates to his particular part of the road, and shall thereupon, at the June muster of that company in which the said road or the greater part thereof shall lie, proceed to let the improvements to the lowest bidder; or the said county court, at the time of directing such improvements, may direct the sheriff of the county, upon any court day that said court shall fix on, to let such improvements at public outcry to the lowest bidder, and in case of letting improvements, either by the overseer, sheriff, or any other person

that such court may appoint for that purpose, it shall be the duty of the person so letting the same, to take from the undertaker a writing to the following effect: "I agree that I have become the undertaker of certain improvements, directed by the county court of (here name the county) at their April or May term last, upon that part of the county road lying between (here state the part of the road) for the sum of dollars, and that I will faithfully make such improvement agreeably to the order of said court. Given under my hand this day of 18 ." Which agreement shall be signed by such undertaker, and he shall also procure one or more good and sufficient securities, to be approved of by the person so letting said road, who shall subscribe a writing to the following effect: "I (or we) the undersigned, do hereby acknowledge ourselves security for the said (insert the name of the undertaker) in the foregoing agreement;" which shall be dated and signed by the security or securities, and shall be written or printed on the same paper containing the agreement of the undertaker; and such agreement, so taken and attested by the sheriff, overseer, or other person, appointed to let such improvements, shall be returned to the clerk of the county court, to be by him carefully preserved; and upon the failure of any undertaker, strictly and in good faith to make the improvements so undertaken by him to be made, within the time prescribed by the county court, and in all respects to conform to, and comply with said order, so far as the same relates to the particular part of the road, so by him undertaken, such court shall direct a rule to be entered against him and his securities; and upon the same being returned executed, as provided for in this act, said court shall proceed to enter a fine against such undertaker and his securities, not less in any instance than one twentieth, nor more than one fourth part of the amount for which such undertaker agreed to make the said improvements, without the intervention of a jury; and in that case, for whatever sum the jury shall assess, and costs.

§ 20. Whenever any county court shall have summoned any undertaker, as in the nineteenth section of this act is provided, such court may give such undertaker, at his request, a further day in which to perform said agreement, or may take from him the said road so undertaken, and direct the same to be let again to some other undertaker, and fix the time within which the same shall be completed, as before; but such court shall not take away from any such original undertaker, any road so let to him, where he has in good faith commenced and progressed with the improvements, so by him undertaken to be made; and where the court shall be satisfied that he will finish the same within a reasonable time, to be given by such court, the courts respectively, may, upon the agreement, with security having been filed with the clerk, as herein before directed, make an order directing the treasurer

to pay the endertaker in advance, any sum of money which said court shall think necessary, to aid such undertaker in making such improvements, not exceeding one half of the amount for which the improvements were undertaken; and upon any undertaker being summoned, as provided for in this section, the court shall, if they shall take said road away and direct the improvements to be let to another, enter judgment for the amount of money so received by such undertaker, against him and his security or securities, with legal interest thereon, and ten per centum damages.

§ 21. No money shall be paid out by the treasurer, except in pursuance of an order of the court of the county in which he was so appointed treasurer; and instead of copying such order, the clerk shall draw his check upon the treasurer to the following effect: "$ Pay to or bearer, dollars, cents, in pursuance of an order of the county court at their term 18 ." Which shall bear date on the day of issuing, and shall be signed by the principal clerk; and he shall enter upon his check book the date and amount of such check, and the name of the person in whose favor it was drawn. The treasurer shall also note the said checks on his book, and carefully preserve the same as his vouchers.

§ 22. The county court shall, in case of the death, resignation or removal of any treasurer, appoint another, who shall execute bond with security, and remain in office until the next April or May term of the court, when such court shall again proceed to the appointment of a treasurer, and the former treasurer shall, at all times be eligible to the office, and shall, unless he desire otherwise, be put in nomination with any others the court shall think fit; and upon the going out of office of any treasurer, he shall surrender to the county court of his county, all money, books, papers and other things in his possession as treasurer; and upon failure to do so, he shall be guilty of a high misdemeanor, and upon conviction thereof, by an indictment or information in the circuit court of the county in which he was so treasurer, he shall be fined and imprisoned at the discretion of a jury.

§ 23. The sheriff shall receive the same compensation for collecting the balances returned by the overseers, as for collecting county levy, and the treasurer shall be allowed six per cent. on all moneys paid out by him, under checks drawn by the clerk, in full of his compensation; and all the necessary books for his office which are ordered by the county court, shall be paid for out of the road fund of the county, and shall be county property.

§ 24. If any treasurer shall fail to pay over any moneys in his hands, ordered to be paid over by the county court, and checked for by the clerk, or if he shall fail to deliver into the county court, all moneys remaining in his hands when he shall go out of office,

the same proceedings may be had against him and his securities, in the name of the Commonwealth, for the use of the party aggrieved, or for the use of the county, as the case may be, as are directed herein to be had against sheriffs; and upon satisfactory proof to the county court, of his failure or delinquency, judgment shall be rendered against him and his securities, for the amount which ought to have been paid in the one case, or delivered over to the county court in the other, and twenty per centum damages thereon, and any and all executions which may be issued on a judgment had under the provisions of this act, shall be endorsed by the clerk, "no security of any kind is to be taken;" but so long as the paper of the Bank of the Commonwealth is received by the State in discharge of the public revenue, all executions aforesaid may be discharged in that paper, and all balances discharged thereby, and all valuations of property, shall be made in that kind of paper, and the wages of common laborers estimated in the same medium.

§ 25. All the justices of the county court shall attend at their April or May term, and in case a majority of all in commission do not attend, those attending may adjourn the court from day to day, and issue summonses against the absentees, and cause the same to be served, until a majority shall have attended, and those attending on the first day, and continuing to attend until the coming in of the absentees, shall, if they be three in number, constitute a court for the trial of such absentees, and unless a good excuse shall be offered for their non-attendance, such court shall cause a fine to be entered against such absentees of ten dollars each, for every day they shall respectively so be absent, which fines shall go into the treasury of the county, and form a part of the road fund; and it shall not be competent for any county court to lay the tax, appoint the treasurer, and direct what improvements shall be made upon the roads, nor discontinue an old road, nor direct a new one to be opened, unless a majority of all the justices in commission in that county shall be present; and if, from any cause, a majority of the justices shall not attend at April or May term, as directed by this act, all the business then directed to be done, may be done at the next term at which a majority may be had; and all things directed to be done at any one court, if omitted, may be done at the next, if, from the nature of the thing, it may be done afterwards.

§ 26. Nothing in this act contained shall be construed to alter the law in relation to the manner of reviewing or marking out new roads, and of proceeding to direct writs of *ad quod damnum* to issue, &c. but upon the return of the summons, and every preliminary having been settled, the court shall continue the question of the propriety of opening such road over, until the April or May term as herein directed to be holden, and when any person shall be desirous to pre-

cure a change of an old road, the same may be ordered and done as heretofore, except that the court shall require of the party applying for such change, to put the new road which he may wish to make, in such order as the court may direct, which shall be at least equal, in point of improvement and durability, to the old road; and if any person shall fence up, or otherwise obstruct the old road, before the new one shall have been thus completed and received by the county court, he shall be subject to all the penalties now prescribed by law.

§ 27. Any overseer, sheriff, clerk, treasurer, or other person, failing or neglecting to perform the duties by this act required, shall, in all cases not otherwise provided for, upon a rule or summons executed, be fined by the county court of the county, any sum not less than one nor more than ten dollars. This act shall be in force from and after its passage; but the present plan of working roads shall not be abandoned, nor the repeal of the laws on that subject be operative, until after the first day of May, one thousand eight hundred and twenty but the courts shall proceed, under the provisions of this act, to bring the same into operation.

AMENDMENTS.

Third section, after the word "property," in the fifth line, strike out all the balance of the section, and insert the following words: "Upon all property subject to taxation by the revenue laws of this State."

Strike out the sixth section.

Eighth section, after the word "delivered," in the 15th line, strike out the balance of the section, and insert the following: "And shall return the same officially, which shall be *prima facie* evidence of the delivery at the time mentioned in such return."

Tenth section, in the ninth line, strike out the word "ten," and insert the word "thirty."

Add to the eleventh section, "or the proceeds herein mentioned, may be had on the application of the overseer before a justice of the peace, and the same judgment may be rendered by him."

Twelfth section, eighth line, after the word "court," insert "or justice of the peace." Tenth line, strike out from the word "nevertheless," to the word "credibility," in the thirteenth line, inclusive. After the word "court," in the fourteenth line, insert the words "or justice of the peace." In the same line, strike out the word "term," and insert the word "time." Nineteenth line, after the word "court," insert "or justice of the peace."

Thirteenth section, seventh line, fill the blank with "five."

Fourteenth section, after the word "by," in the seventh line, insert "the clerk of." Strike out the word "they," in the eighth line, and insert "he."

After the fourteenth section, insert the following:

"*Be it further enacted*. That all fines and forfeitures hereafter collected in pursuance of the judgment of any court or justice of the peace, for any cause whatever, shall form a part of the road fund of that county in which they are so assessed, and the clerks of circuit courts, magistrates, constables and other officers, shall certify to the court of claims, the fines assessed under this act, and pay the same over to the clerk of the county court, at the court of claims, in the same manner and under the same penalties, as are now prescribed by law in other cases of fines; and the clerk shall pay the same over to the county treasurer, and take his receipt therefor."

Fifteenth section, first line, strike out the word "clerk," and insert "clerks of county courts." Second line, strike out the words "under the provisions of this act," and insert "in the county court, for any cause whatever, and also, all fines certified by the clerks of the circuit courts and magistrates, the amount of which may not have been paid over to him." Ninth line, after the word "sheriff," insert "and constables."

Sixteenth section, tenth line, strike out the words "by motion."

Nineteenth section, fifth line, strike out the word "minimum," and insert "maximum."

Twenth-fourth section, seventeenth line, strike out the word "aforesaid," and insert "in virtue of this act." Strike out the balance of the section after the word "thereby," in the nineteenth line.

Twenty-fifth section, after the word "fine," in the ninth line, insert the word "*nisi*." Tenth line, strike out "ten," and insert "five." Eleventh line, after the word "absent," insert the following: "And if such justice shall attend during that term, the court shall proceed to hear his excuse and determine upon the same; and should he continue absent during the whole of that term of said court, the clerk shall copy the judgment for a fine *nisi* against him, and the same shall be executed upon such delinquent justice by the sheriff, and upon the same being returned executed, five days previous to any term of the court, or upon such delinquent justice coming in and waiving the service of process, the said court shall proceed to hear his excuse, and pronounce upon the reasonableness of the same, or upon his failure to appear and offer his excuse, upon oath, said court shall proceed to enter up the fine in this act mentioned."

The question was then taken on engrossing the said bill, as amended, and reading it a third time, which was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon by Messrs. M'Connell and Bruce, were as follows:

YEAS—Mr. Speaker, Messrs Blackburn, Breckinridge, Bruce, Carter, Coleman, Gaines, Gordon, M'Clanahan, M'Connell, Owings, Perrin, Skyles, Slaughter, Sterrett, Robert Taylor, True and Waddell—18.

NAYS—Messrs. James Allen, Bainbridge, Barbee, Breck, Bruton, Chenowith, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Dyer, Elliston, Evans, Farmer, Ford, Gibson, Green, Grundy, Hall, Hansford, Hanson, Harvey, Hutchison, Lackey, Lee, Marshall, Martin, Maupin, Mayes, M'Cormas, Miller, M'Millan, Napier, Nuttall, Owsley, Payne, Porter, Prince, Reed, Sanders, Spalding, Street, Tarlton, Z. Taylor, Timberlake, Thomas, Thomasson, Turner, Underwood, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, A. White, S. White, Woodson and Yantis—60.

Mr. Napier, from the select committee to whom was referred a bill for the benefit of William Steel, reported the same without amendment.

The said bill was then ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Napier carry the said bill to the Senate, and request their concurrence.

Mr. Woodson, from the select committee to whom was referred a bill from the Senate, entitled "an act to extend the terms of certain circuit courts in this Commonwealth," reported the same with amendments; which being severally twice read, were concurred in, and the said bill, as amended, ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with,

Resolved, That the said bill, as amended, do pass.

Ordered, That Mr. Woodson inform the Senate thereof, and request their concurrence in said amendments.

Mr. Thomasson, from the select committee to whom was referred a bill to repeal so much of the act entitled "an act to amend the law concerning ferries," as authorizes the establishment of a ferry across the Ohio river from the lands of William L. Todd, reported the same without amendment.

Ordered, That the said bill be re-committed to a select committee of Messrs. Brown, Thomasson and Hanson.

Mr. Watkins, from the select committee to whom was referred a bill for the benefit of William Davis, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be amended to read "an act for the benefit of William Davis and others."

Ordered, That Mr. Watkins carry the said bill to the Senate, and request their concurrence.

Mr. Walker, from the joint committee appointed to examine and report upon the state of the Penitentiary institution, made the following report:

The joint committee from the Senate and House of Representatives, appointed to examine and report to the Legislature, the situation of the Penitentiary, make the following statement in relation to the state of that institution, on the 16th day of the present month:

The rapid improvement of the state of the institution, has far surpassed the most sanguine expectations of your committee. The cells are well secured, clean and comfortable, and the convicts entirely healthy, and seem to be engaged in their different employments, with cheerfulness and activity. They are well fed on good, healthy victuals; their beds are clean, and well supplied with clothes to keep them warm; they are, at present, furnished with good clothes, and the Keeper is now preparing linsey garments, variegated by different colours, to distinguish them in case they should make an escape.

The Keeper has happily turned his attention to the manufacturing of articles which do not remain on hand any length of time; indeed, the demand for a great many articles, is so great, he can scarcely supply it.

Your committee cannot refrain from expressing their gratification on seeing within the walls of a Penitentiary, a steam engine in complete operation, the power of which drives into operation a wool-carding machine and fulling-mill. Other labor-saving machinery is in operation, all of which promise the most flattering prospects, and encourage your committee to hope, that the day is not distant, when this institution will become a source of considerable revenue to the State.

Your committee have examined the books of the Penitentiary and the manner in which they are kept. The clerk keeps a book in which he records an invoice of all the manufactured articles, another book in which he charges all the cash sales; also, a day-book, journal and leger, in which the accounts are kept by double entry. The books are all well bound, and the accounts entered in a plain, fair hand-writing. The clerk was prompt in giving your committee every information which was required. Your committee cannot help expressing a belief, that the clerk has kept a faithful and honest account of the concerns of the institution.

Your committee would suggest the propriety of permitting the Keeper to furnish a fire-engine for the Penitentiary. One of the shops, lately, was near being consumed. Such accidents may frequently occur, and much loss sustained, which the use of an engine may, and no doubt, will prevent; for which the Keeper pro-

poses to draw no money from the Treasury, but to charge the price of it to the State.

The Keeper represents to your committee, that when he received the convicts and took charge of the Penitentiary, they were almost without clothing of any kind; that he was obliged to furnish them with clothes at the very commencement of his term, in order to place them in a situation to render himself or the State any service, for which he does not desire to draw any money from the Treasury; but to obtain a credit for the amount of his account for clothing, in his settlement. The following is the account submitted by the Keeper to the committee:

To 456½ yards of jeans and linsey, at 75 cents,	$342 37½
20 pounds sewing thread for making clothes, at $1 25,	25 00
83 pairs yarn socks for convicts, at 50 cents,	41 50
40 pairs of shoes for do. at $2 50,	100 00
207 yards tow linen, at 25 cents,	51 75
Making 40 garments, at 25 cents,	10 00
	$570 62½

All of which is respectfully submitted.

JAMES ALLEN, *Chairman of Committee of the Senate.*

CYRUS WALKER, *Chairman of Committee of the House of Representatives.*

Mr. Walker, from the select committee to whom was referred a bill for the benefit of the sheriff of Campbell county, reported the same with an amendment; which being twice read, was concurred in, and the said bill, as amended, was ordered to be engrossed and read a third time on Monday next.

A message was received from the Senate, by Mr. Denny, announcing their concurrence in a resolution from this house, rescinding the resolution for the adjournment of the General Assembly, and fixing on a day for that purpose.

Mr. Hanson, from the select committee to whom was referred a bill to punish slaves for certain offences, reported the same with an amendment; which being twice read, was concurred in, with an amendment.

Ordered, That the said bill, as amended, be engrossed and read a third time on Monday next.

The house proceeded to consider the amendment proposed by the Senate, to a bill from this house, entitled "an act further to regulate the Bank of the Commonwealth." The said amendment was then read as follows, viz.

Strike out the whole of the bill after the enacting clause, and in lieu thereof insert the following:

That the office of clerk in the several branch banks of the Bank of the Commonwealth of Kentucky, be and the same is hereby

abolished, and the cashiers shall perform all the duties which have been heretofore performed by the cashier and clerk: *Provided, however*, that whenever it shall appear to the president and directors of said branches, or either one of them, that from the unusual press of business in their respective branches, it is necessary to employ some person to assist the cashier, it shall be their duty to do so, during the existence of any such necessity, for which a reasonable compensation shall be made by a majority of the board of directors.

§ 2. *Be it further enacted*, That the president of the principal bank shall hereafter receive, annually, the sum of $750, in notes of the Bank of the Commonwealth of Kentucky, for his services; the cashier of the principal bank, $800, and the clerk thereof, $600.

§ 3. *Be it further enacted*, That there shall not be employed by the president and directors, any other assistant or clerk, in the principal bank, than is herein provided for, any law to the contrary notwithstanding.

§ 4. *Be it further enacted*, That one additional director shall be elected and added to the branch Bank of the Commonwealth located at Somerset, who shall reside in said town or the vicinity thereof: *Provided, however*, that the said director shall not be entitled to receive any loan or discount, in consequence of his being a director.

§ 5. *Be it further enacted*, That no fee shall be allowed to any attorney for prosecuting suit, recovering judgment and ordering execution, &c. upon any note due to the Bank of the Commonwealth or its branches, other than the docket-fee allowed by law, in each case in which no defence is made.

§ 6. This act shall commence and be in force from and after the day of next.

It was then moved and seconded, that this house disagree to the said amendment of the Senate; and the question being taken thereon, it was decided in the negative, the house, on said question, being equally divided.

The yeas and nays being required thereon by Messrs. Hanson and Bainbridge, were as follows, viz.

YEAS—Mr. Speaker, Messrs James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Davis, Duke, Ford, Gibson, Green, Grundy, Hanson, Harvey, Hutchison, Logan, Maupin, Mayes, M'Connell, Owsley, Payne, Reed, Skyles, Sterrett, Robert Taylor, Z. Taylor, True, Turner, Underwood, Waddell, Walker, Wilson, Wingate, Woodson and Yantis—36.

NAYS—Messrs. Barbee, Bruton, Carter, Chenowith, Coombs, Cowan, Cox, Cunningham, Dyer, Elliston, Fulton. Gaines, Hall, Hansford, Haskin, Lackey, Lee, Martin, M'Clanahan, M'Millan, Morris, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Thomasson, Wade, B. E. Watkins, E. Watkins and S. White—36.

It was then moved and seconded to commit the said amendment of the Senate to a select committee, for the purpose of amendment;

and the question being taken thereon, it was decided in the negative, the house, on said question, being equally divided.

The yeas and nays being required thereon by Messrs. Turner and Hanson, were as follows, viz.

YEAS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Daniel, Davis, Duke, Ford, Gaines, Gibson, Green, Grundy, Hanson, Hutchison, Logan, Manpin, Mayes, M'Connell, Owsley, Payne, Reed, Skyles, Sterrett, Robert Taylor, Z. Taylor, Timberlake, True, Turner, Underwood, Waddell, Walker, Woodson and Yantis—36.

NAYS—Messrs. Barbee, Bruton, Carter, Chenowith, Coombs, Cowan, Cox, Cunningham, Dyer, Elliston, Fulton, Hall, Hansford, Haskin, Lackey, Lee, Martin, M'Clanahan, M'Millan, Morris, Mullens, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Thomasson, Wade, B. E. Watkins, E. Watkins, Wingate and S. White—36.

The house then adjourned.

MONDAY, DECEMBER 19, 1825.

A message from the Senate, by Mr. Pope:

Mr. Speaker—The Senate have passed bills of the following titles: An act concerning the Court of Appeals; an act to establish the town of Mount Carmel, in Fleming county, and for other purposes; and an act to reduce the salary of the President of the Bank of the Commonwealth—in which bills they request the concurrence of this house.

And then he withdrew.

Mr. Morris presented the petition of sundry persons claiming title to an Island in the Ohio river, near the town of Henderson, praying that an application be made by the Legislature of Kentucky, to the Congress of the United States, for the adjustment of the conflicting titles to said Island.

And Mr. Wingate presented the petition of sundry citizens of Gallatin county, praying that a law may pass incorporating the Spring Creek Seminary.

Which petitions were severally received, read and referred; the first to the committee of propositions and grievances; and the second to a select committee of Messrs. Wingate, Tarlton and Gibson.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz. An act to alter the mode of taking in lists of taxable property; and an act further to regulate the payment of the debt due the Commonwealth for the sale of vacant lands.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

Mr. Breckinridge, from the committee for courts of justice, made the following report:

The committee for courts of justice, to whom was referred so much of the message of the Governor as relates to the Bank of the United States, submit the following report:

In regard to the constitutionality of the law establishing the Bank, the committee do not feel themselves called on to express an opinion, nor to refer to the high authorities which have sanctioned it, during almost the whole period of our national existence. Neither do they deem it necessary to detail the opposition it has encountered. That subject does not fall properly within their present duties.

So far as they are able to understand the charges of the Governor, they amount substantially to these: 1st, That the Bank of the United States has, through its branches located in this State, and its friends in and out of it, carried on a systematic attack, for a series of years, against the sovereignty and rights of this Commonwealth. 2d, That the said Bank and its friends have succeeded in controlling the decisions of our appellate court and the supreme court of the nation. 3d, That the branches of that Bank located in this State, have purchased up the real estate of our citizens, and filled it with tenantry; and that its wealth is exempt from taxation by this State. 4th, That they influence many of our citizens by the ties of interest, and affect the purity of our elections, by voting through their *numerous officers, tenants and dependants.*

In regard to the first of these charges, he has, in his message communicated on the 14th instant, endorsed "Message 25," which has also been referred to this committee, exceedingly narrowed its limits. The charge is couched in the broadest and most unguarded terms. The specifications are about these: That our Court of Appeals has acknowledged itself bound by the decision of the supreme court of the nation, as to the constitutionality of the act of our General Assembly taxing the Bank of the United States in its corporate rights; that in 1820, attacks were made by counsel in several cases in the United States Circuit Court for the Kentucky District, on our replevin system, which were afterwards successfully renewed against the two years' replevy law, in the cases of Lapsley vs. Brashears and Blair vs. Williams, in our State courts, and the case of Wayman and Clark vs. Southard and Starr, in the Federal court; that in the case of the Bank of the United States vs. Halstead, &c. the constitutionality of our valuation law was attacked. It is also stated, that in the case of the Bank against January, *Henry Clay* called in question our statute abolishing imprisonment for debt. No further notice is apparently taken of this case, than what was necessary to assail that illustrious citizen, and hold him up to the derision of the State, as the friend of the Bank, and its pensioned agent in the destruction of our free institutions.

Touching the first specification, we admit, as stated, that our appellate court decided, in the case of the Commonwealth vs. Morrison, that the law establishing the Bank was unconstitutional; that our act of assembly taxing the Bank was constitutional; but that the supreme court of the nation having settled the case otherwise, that decision was binding on the State court. In this last point, which is the one immediately at issue, the committee are clearly of opinion that our Court of Appeals decided correctly. In article 3, section 2, of the Federal constitution, it is provided, that "the judicial power shall extend to all cases arising under the constitution, the laws of the United States," &c. In the act of Congress passed in 1789, called the Judiciary Act, section 25, it is provided, among other cases specified, that a final judgment or decree of the highest court of a State, where is drawn in question the validity of a statute of the United States, and decided against its validity, may be re examined and reversed or affirmed by the Supreme Court of the United States. This was a case precisely embraced by both of the above provisions, and seems to have been so unanimously held by the whole bench, including Mr. Justice Rowan. Our supreme court was, as to this case, an inferior court; and unless we are prepared to see every court in the land, both State and National, erect itself into a petty independent sovereignty, we must admit the right of the court in the last resort, to control the decisions and acts of all those subordinate to it, in all cases which can come lawfully before it. Such is the doctrine of reason and all our constitutions; any other is subversive of all propriety and order, and must end in the destruction of our government. The Federal government is as essentially the government of the people of Kentucky, as their more immediate local authorities. They are not less interested in the existence of the one than of the other. It becomes, therefore, a subject of the most earnest and solemn inquiry, how far it should be a matter for Executive congratulation, that those whom he considers our highest judicial functionaries, are prepared and pledged to resist the lawful administration of our national justice.

So far as attacks may have been made on our *retrospective replevin and valuation laws*, whether by the Bank of the United States, or by its friends or enemies, if they have been made in a proper manner, or before the proper tribunals, it was a right guaranteed to every individual in the nation, and every corporation to which our courts are open. It is a right indestructible and inherent in man, and any authority which attempts to control it, is naked despotism. Yet the Executive of this Commonwealth, after officially communicating to the General Assembly that the Bank of the United States has systematically waged war, for a series of years, on our legislative sovereignty, responds, in answer to a call for his superior information, that our citizens have exer-

cised this sacred right; that our appellate court has refused to disobey the laws and constitution of the Republic, and that a system which is the opprobrium of the age, has been called in question in the courts of the country! This is sporting with facts and with sense—with this house and the country.

The second charge has necessarily been embraced, to some extent, in our observations on the first. It would be sufficient, perhaps, to say, that there is no solid evidence adduced by his Excellency, or known to us, which would go to show that the Federal or State courts have been influenced in any decision they have given, by any other considerations than the facts and merits of the particular case, and the law arising therefrom. When, however, we recur to the names of counsel, exhibited in the communication of his Excellency as maintaining the interests of the Bank and controlling the decisions of the courts adverse to the dignity and rights of this Commonwealth, we cannot avoid a little incredulity. When the late *Martin D. Hardin* is mentioned as a man who was likely to engage, and actually enlisted against the constitutional liberty of his country, and leagued with *Henry Clay*, against the dignity and real interests of the State, we feel a disposition to smile, which is checked only by the reflection, that the grave of a virtuous man is too sacred to be disturbed by the ebullitions of party rancor. We will here barely remark, that we do not perceive the cogency of that logic which shows that every one who may be interested in the decision of a point of law, whether he be party to the proceedings or not, shall be responsible for every thing done therein. How the fact that our Court of Appeals has decided the two years replevin law to be unconstitutional, in a case between two individuals, goes to prove that John Sergeant and Langdon Cheves, or even the branches of the Bank of the United States, have corrupted our Judiciary, we are at a loss to imagine. If, however, it be a fact, it is of a nature more melancholy than his Excellency seems to have supposed; for in this corruption almost every man out of Kentucky, and a considerable majority of those within our State, are believed at this moment to concur.

Notwithstanding the startling array of names and authorities adduced to show the extent and venerableness of the principle of retroactive replevy laws, which we think may be aptly denominated the divine right of governments to ruin their people, we are yet incredulous as to its value and legality. So far as we have been enabled to ascertain, from a rapid examination, it will be found that the supreme courts of most, if not all the States, which have decided on the power of the State Legislatures to extend the time of the performance of contracts, beyond the provisions of the instruments themselves, and render that extension retroactive in its operation, have settled the question as our court did. Among

this number, are the courts of Vermont, North-Carolina, Tennessee, Missouri, Illinois, Mississippi and Ohio. Indeed, something very like opposition to the exercise of this ruinous power, is found in our own annals, at a period earlier than the Governor has thought fit to designate. A reperusal of the objections of Governor Scott to the occupying claimant law of 1811, will show this fact to his Excellency. We allude, of course, to that part of those objections which relates to the nature and obligation of private contracts. Similar doctrines are believed to have been advocated by Mr. Rowan, in opposition to the twelve months' replevy law of 1814; and by Governor Slaughter, in his objections to the sixty days' stop law of 1819. But to go still higher up, and to take an authority triumphantly, but unadvisedly, cited by the Governor himself, there is a letter recently printed, dated in 1786, in which a very striking view of this subject is taken, and the principles here maintained, well supported by the late *John Breckinridge*. Indeed, so far as is known to this committee, no court in the last resort has settled this doctrine otherwise than as our own has settled it.

Your committee have no knowledge that the Bank of the United States had any agency in this matter. It does not sue in our State tribunals, and has never, in any case known to us, contested the validity of our State laws in them, if we except the case of the Commonwealth vs. Morrison, noticed above.

The influence of the Bank over the Federal courts is directly charged. The proof is before this house, and is not of such a nature, in the opinion of the committee, as to warrant even a suspicion that the charge is true.

With a view to ascertain as minutely as possible, the state of facts connected with the third charge, letters were addressed by the acting chairman of this committee, to Messrs. Harper and Shippen, Cashiers of the Lexington and Louisville Branch Banks, and to Mr. Scott, agent of the Bank in the management of its real estate, requesting their attendance before the committee. Copies are annexed, marked A. and B. Mr. Shippen and Mr. Scott attended, and in addition to statements made on oath, filed with the chairman the annexed documents marked C. and D. Document C. contains a list of all the real property now held at the Louisville office, which was received on account of debts due them; the amounts of the several debts on which the various portions of this property were purchased; the manner of acquiring title; the amount at which it was actually received, and the names of the present officers and tenants of that branch. Document D. contains a list of all the property acquired at the Lexington office; the prices at which it was received; the number of the officers, and the names of the present tenants of that branch. From that marked C. it appears that the amount of debt on which real estate

has been purchased at the Louisville office, is over $194,000; that the amount paid off by the acceptance of property to discharge that sum, was about $132,000. That office, it seems, is also in possession of 2,000 acres of land lying near Louisville, in addition to the amount above specified, to secure a debt of about $33,000. The amount of property taken in discharge of debts at the Lexington office, is something over $270,000. The amount taken at the two offices jointly, is about $67,000. The whole estimated amount taken together, is not far from $462,000. This is the aggregate value in par funds, at which the offices became possessed of all their real estate. The estimated value on the Auditor's books, of that now listed for taxation by the Bank, is about $182,000 in currency. We have not had an opportunity of comparing the annexed documents with the Auditor's books; but supposing them to correspond essentially, except where the documents themselves will give a clew to the nature of the difference, the great difference in the valuations is striking, and will be borne in mind in connexion with subsequent explanations. It is proved to the committee, by Messrs. Scott and Shippen, that with the exception (which is noticed in the paper marked C.) of a slip of ground four feet wide, purchased as an alley for the convenience of the office at Louisville, neither of the branches located in this State has in any instance purchased any real estate, or become possessed of any, which was not taken or purchased in discharge of debts previously contracted to the Bank; that it is the invariable practice of these branches, and the positive instructions of the mother board, never to become possessed of property of this description, unless it becomes necessary to secure debts due to the Bank; that they have consequently, in all instances, refused to receive real estate, where it was believed the sums due could be collected in money. Such estate is never purchased, except to coerce or secure the payment of debts. This portion of their business is considered so far unprofitable, that the agent of the Bank gives it as his decided opinion, that if the Lexington office could dispose of the whole amount of property obtained there in discharge of debts, or purchased to secure them, for one half the sum it cost the Bank, it would be a profitable arrangement. The Cashier of the Louisville office also states, that taking the whole amount of property owned by that office, it has been purchased at more than its fair value. Neither of these statements is meant to apply to any particular portion of the estates, but to the whole taken as an aggregate amount. This seems to your committee conclusive that the Bank of the United States has no desire to evade or abuse its chartered privileges, by becoming a great landed corporation. That it has power, by its charter, to purchase real estate in the manner specified above, seems not to be doubted, as it is expressly granted in the 7th section of the charter

itself. That by receiving real estate in discharge of debts due from our citizens, it has aided in some degree in relieving them from the pressure of the times, is also highly probable.

About $175,000, being more than one half the amount liquidated at the Lexington office by the purchase of real estate, was received under arrangements made at Philadelphia, with the mother board, by one connexion owing that amount to that branch in their own names, as security, and as *bona fide* creditors for sums which they stated were really their debts, under the borrowed names of friends. The precise amounts are not given by the agent, in consequence of the arrangement not having been finally closed.

The next largest debt appears to be that due and partly arranged, as stated above, at the Louisville office, by receiving into its possession 2,000 acres of land lying near that place. This debt, principal and interest, is stated at about $83,000, and was due, as appears, by a citizen of Ohio.

The third debt in magnitude, settled in this way, is that negotiated jointly by the two offices, amounting to about $67,000.

These three transactions amount together to about $325,000, being considerably more than one half of the whole amount of real estate owned by the branches in this State. This enormous amount, it will be remembered, was due from one family connexion and two other debtors. These facts are thus minutely detailed, to show how very small a proportion of our citizens have surrendered their estates to these institutions, and are really interested in what his Excellency seems to consider such monstrous oppression.

It is stated by the agent of the Bank, (Matthew T. Scott,) and the Cashier of the Louisville branch, that so far as their knowledge extends, when applications ave been made, the Bank has, where executions have been levied, extended time to its debtors, upon their securing the debt to its satisfaction; that it has, after acquiring the legal title to estate, by regular process of law, given the privilege to the former owners, of negotiating sales, subject to its ratification, for their own private benefit, when the property would bring more than it had been purchased at; that in several instances, after the property was in the full possession of the Bank, it has sold it for more than it cost, and instead of making it a matter of profit to the institution, has credited the excess to the accounts of the individual debtors, in the same or other transactions, and has in no instance sold property for an amount exceeding the price at which it was purchased and retained the surplus; nay, that it has offered to individuals unfortunately situated, to release one half the amount of debts for which they were bound, on their securing the other half. In confirmation of these statements, your committee have been referred to many transactions

and individuals. It is declared, however, that in all such transactions the Bank acts with a view to avoid the acquisition of real estate, and holds itself authorised to avail itself of the laws of the country, to coerce the payment of its debts, as fully as any private individual.

So much for the effort of the Bank to purchase up the real estate of the country. That the Bank should have tenanted its property, seems most natural, and not particularly criminal. It appears from the lists of its tenantry furnished the committee, that there are not far from one hundred tenants of the Bank in this State. Of this number, 10 are females, and 5 negroes, and about 75 or 80 apparently free white males, qualified as voters of this Commonwealth. Of the white males, it appears that about 25 reside in Fayette county, 22 in Scott, 10 in Franklin, 10 in Jefferson, and the remainder scattered in several counties.

The statement of the Auditor, marked E. annexed hereto, shows that the State tax on the real estate of the Bank, is paid up to a recent date. The agent states, that it is his duty to list and pay the taxes on this property, and that he regularly performs this duty. He states further, that in every instance where any property of the Bank is located in any town, the town tax is regularly paid.

This might perhaps seem sufficient to show that his Excellency was mistaken as to the fact that the property of the Bank is not subject to taxation, and actually taxed by this State. To put the matter at rest, we beg leave to refer to the decision of the Supreme Court of the United States, in the case of Osborne vs. the Bank of the United States, 9th Wheaton, page 867, where the court expressly recognizes the right of the States to tax the local property of the Bank. If, however, it should be supposed that his Excellency had reference only to the *stock* of the Bank, it may be answered, that while that interpretation is far too narrow for the terms made use of, it is rendered disrespectful to the knowledge of the Executive, by supposing he was not aware of the existence of a law of this State, approved by himself on the 12th of January 1825, taxing the *stock of this very Bank*. We allude to the 5th section of an act of the last session, entitled "an act to apply the net profits of the Bank of the Commonwealth, for the year 1825, in aid of the public revenue, and for other purposes." The section is as follows: "*Be it further enacted*, That the several commissioners of the tax shall hereafter, in taking in the lists of taxable property, require of each individual listing his property, to state upon oath, whether he owns any stock in the Bank of the United States, and if any, what amount, which the said commissioner shall list as other property; and it shall be the duty of the several sheriffs to collect from the individual or individuals owning stock as aforesaid, twenty-five cents upon each share, and which shall

be accounted for by the sheriffs, as other taxes." His Excellency has been *misled*, both as to the law and the facts.

Connected with this view of the subject, the fourth charge of the Governor will appear very extraordinary. The officers of the Branch Banks amount to about 24; their voting tenants, to about 75 or 80; in all, about 100. *Their dependants*—his Excellency has failed to show that there is one, and we will not outrage our fellow-citizens by gratuitously believing that one exists. It is in vain to attempt an explanation, by saying that the offensive and injurious accusations against the freemen of this Commonwealth were made by way of suggestion. It is as idle to talk about the cruelty of exposing the names of men who have already been held up to public execration, as it was vulgar to communicate personal insult, under the guise of facts and argument.

But admitting every officer and tenant of the Bank to be its dependant, it may well be wondered at, that one hundred men, half of whom at least are not very distinguished, should not only control the elections in which some seventy thousand vote, and disturb the repose of the Executive of this enlightened State, but should actually threaten the integrity of our political institutions!

It is positively asserted by both the witnesses alluded to above, that the officers of the branches of the United States' Bank located in this State, have never, to their knowledge, in any instance attempted to use their official influence to effect a political object, or in any way control the votes of their tenants; that, in fact, their political opinions are unknown to the witnesses, except from accidental association, or in instances where the individual has made himself conspicuous. So far as the committee can ascertain, a majority of the tenants of the Bank are believed to have voted against what his Excellency seems to consider the interest of that corporation, viz. for his own friends and those of the new court. This, however, is a matter of very little importance. Our objects have been to exhibit the relations between the Bank, the government and our citizens, in a just and proper point of view; to substitute facts in the place of abuse, and obtain such information as would enable this house and the country to decide correctly on a subject which is believed to be most important. Having done this, in such a manner as their limited time and means would allow, but one other object remained to the complete discharge of their duty; that, they believe they have effected, in embodying such evidence as will shield any, the smallest portion of their fellow-citizens from charges which are as groundless as they are revolting to their honest pride of character, and which seem to have been prompted in a spirit of wanton aggression.

Inasmuch, however, as considerable dissatisfaction has existed, and does still exist, in several of the States, but more particularly in this State, because branches of the Bank of the United States

have been located in them, possessing powers which are thought by many, dangerous, if not unconstitutional; and inasmuch as that which is next in importance to a correct administration of the general government, is to give general satisfaction to the States and the people: Therefore,

Be it resolved by the House of Representatives of the Commonwealth of Kentucky, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure the constitution of the United States to be so amended as to preclude the Congress from locating or giving authority to locate any bank, or branches thereof, in any State in this Union, without the express consent of the Legislature thereof, previously had.

Resolved further, That the Governor of this Commonwealth be respectfully requested to transmit a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

(A.)

FRANKFORT, December 8th, 1825.

Dear Sir:

The committee for courts of justice of the House of Representatives request your attendance before them on the 13th inst. in the Representative Chamber. An inquiry is before them, touching the conduct of the offices of discount and deposite of the Bank of the United States located in this State. The committee desire to know the quantity of real estate owned by the Bank in Kentucky, the number of its tenants, in what manner the Bank has acquired title to the estate it holds, and the number of the officers of the Bank employed at said offices. You are, therefore, requested to bring with you such documents as will furnish the information required. If you cannot attend in person, but can send any officer of the institution capable of giving accurate information on the foregoing subjects, the attendance of such is requested.

(Signed) J. R. UNDERWOOD,
Chairman C. C. J.

MR. SHIPPEN, *Cashier*
Bank U. S. Louisville.

(B.)

FRANKFORT, December 8th, 1825.

Gentlemen:

The committee for courts of justice of the House of Representatives request your attendance before them on the 13th inst. in the Representative Chamber. An inquiry is before them, touching the conduct of the offices of discount and deposite of the Bank of the United States located in this State. The committee desire to know the quantity of real estate owned by the Bank in Kentucky, the number of its tenants, in what manner the Bank has

acquired title to the estate it holds, and the number of the officers of the Bank employed in said offices. You are, therefore, requested to bring with you such documents as will furnish the information required.

(Signed) J. R. UNDERWOOD,
Chairman C. C. J.

MESSRS. SCOTT and HARPER,
Bank U. S. Lexington.

(C.)

A List of Property purchased and held by the Office of Discount and Deposite of the Bank of the United States at Louisville.

Lot No. 186, on Market street in Louisville, occupied by the Bank as a place of business, taken in discharge of three debts due by T. Gwathmey, amounting to $11,057, and four feet of ground adjoining the above, purchased for an alley for the convenience of the office, at $300; both held by deed, and in possession of the Bank and Cashier.

206 acres of land on Harrod's creek, 12 lots containing 4 acres, and 15 acres 92 poles in or near Transylvania, Samuel N. Luckett's debt, $4,000, purchased under decree of foreclosure, at $1,910—names of tenants not known.

An undivided fourth of 1,180 acres near Louisville, and 255 acres on Muddy fork of Beargrass, Wm. C. Galt's debt, $18,404 57 cents, under decree of foreclosure, at $8,100; the 255 acres in possession of D. F. Strother.

200 on the Ohio, above Louisville; southern moiety of half acre lot No. 189; an undivided fourth of an undivided half of 35 acres adjoining Louisville; 1,200 acres in Allen county, of which there is a title to but one seventh part, the whole being in the heirs of Gen. Maupin; 2 lots in Shippingport, Nos. 3 and 6; and 65 feet of half acre lot No. 17, being a balance unsold, (this lot No. 17 was purchased at the sale under decree against Maupin, and Harrison's title thereto purchased for $1,500 of his debt to the Bank;) taken for Richard Maupin's debts, amounting, exclusive of interest, to $15,625, under decree of foreclosure, at $3,830, and in possession of Samuel Lawless, W. Moore, Frederick Dill, Rev. Mr. Shaw and Robert Goring.

A house in Frankfort, part of lot No. 36; Mansion House in Frankfort, lot No. 29, and also lot No. 16, including stables, &c. of the Mansion House; J. J. Marshall in his own name and security for others, for debts due at Lexington and Louisville, 67,000 dollars, by deed from Marshall, Bank of Kentucky and the Trustees of Frankfort, purchased at $67,000, and in possession of Richard Taylor, John H. Hanna, John J. Marshall, D. Bradford, J. Swigert and Dr. Wilkinson.

A half acre lot in Louisville, No. 236, on which is erected a steam mill; John H. Clark and Co's. debt, exclusive of interest, $17,470 86; purchased under decree of foreclosure, at $11,000, and in possession of Scheving and Tunstall.

79 acres in Campbell's enlargement of Louisville; A. L. Campbell's debt, exclusive of interest, $4,085; purchased under decree of foreclosure, at $2,000, and in possession of the Rev. Mr. Banks.

About 370 feet by 90 deep, being the balance unsold of one half of square No. 4 in Louisville, and inner half of half acre lot No. 233; John H. Clark's debt, exclusive of interest and costs, $11,200; purchased under decree of foreclosure, at $4,300; the former in possession of J. P. Canfield's widow—adverse possession of lot 233 by C. M. Thruston, who claims title thereto.

79 feet front by 110 feet deep on Main street, and 26 feet 3 inches front on Market street by 100 deep, being the balance unsold of half acre lots Nos. 92 and 109; W. H. Booth's debt and interest, $13,300; purchased under decree of foreclosure, at $11,100.

55 feet on Main street, part of lot No. 25; 35 feet on Market street, part of lot No. 113; 483 acres on the road from Louisville to Salt river; an undivided moiety of 416 acres adjoining the above; 500 acres in Bullitt county, near Mount Vernon, and 1,100 acres, or thereabout, near the mouth of Salt river; James C. Johnston's debt and interest, say $30,000; purchased under decree of foreclosure, at $11,420, and in possession of W. H. Neilson, J. G. Hall, W. Wooley and Henry Given.

666 2–3 acres in Green county, purchased for $150, under an execution against S. Vance's heirs, for a debt of $1,700.

In addition to the above, the Bank is in possession, under an amicable suit of ejectment, of 2,000 acres near Louisville, which is mortgaged to the Bank by Wm. Lytle, to secure a debt of $67,501 72, and interest thereon, amounting to upwards of $16,000. The mortgage is not foreclosed, and the Bank took possession for the purpose of protecting the timber, and Robert Wallace, jun. is employed as an agent for that purpose.

1,000 acres in Hopkins county, 500 in Christian, 400 in Livingston, 1,666 2–3 on Bank Lick creek, 266 on Licking creek, and 1,000 in Grayson county. These lands were given up by G. M. Bibb, Esq. to satisfy an execution against him, and were purchased by the Bank for $25 3½. No deed has been made to the Bank therefor, nor have we taken possession, nor is it known whether Mr. Bibb had any title. It is understood that many of the tracts have been forfeited to the State.

A house and lot in Louisville was also purchased for $25, under an execution against Thomas Glass, who had previously conveyed the same to —— Applegate.

List of Officers in the Louisville Office.

James Hughes, President; Edward Shippen, Cashier; George C. Gwathmey, Teller; Alfred Thruston, Clerk; James R. Goring, Porter; James W. Denny, Attorney; 8 Directors; M. T. Scott, Agent for the two offices.

(D)

A list of property belonging to the Bank of the United States, in Kentucky, acquired at the office at Lexington.

Lot of ground at the corner of Church street and Mill street, Lexington, conveyed by W. T. Barry, consideration $6,000, office Bank United States tenant.

170 acres of land, near Lexington, conveyed by W. T. Barry, consideration $9,000, Reed Wilson tenant.

300 acres of land, near Fredericksburg, Gallatin county, conveyed by John T. Johnson, consideration $7,500, John Payne, jr. and James Robertson tenants.

A lot of ground on Main street, in Georgetown, having a double brick house, conveyed by John T. Johnson, consideration $6,000, James B. Miller and Leo Tarlton tenants.

A lot of ground on Main street, Georgetown, frame front building and brick buildings back, conveyed by John T. Johnson, consideration $4,500, John Fisher tenant.

A lot of ground on Hamilton street, Georgetown, with a frame house, &c. conveyed by John T. Johnson, consideration $1,500, James S. Johnston tenant.

A lot of ground on Main Cross street, Georgetown, unimproved, conveyed by John T. Johnson, consideration $1,500.

150 acres of land, Scott county, conveyed by John T. Johnson, consideration $3,750, R. B. Jackson tenant.

540 acres of land, Owen county, and 750 in Caldwell county, unimproved, conveyed by John Payne, consideration $6,000, William Stafford tenant of the first tract.

20 acres of land adjoining Georgetown, including the stone buildings, &c. formerly a bagging factory, conveyed by John Payne, consideration $5,750, James S. Brenham and John Fisher tenants.

Lot in Georgetown, on Main and Water streets, conveyed by Richard M. Johnson, consideration $1,000, John M. Lemon tenant.

Lot in Georgetown, on Hamilton street, improved, conveyed by G. M. Bower, consideration $5,000, James F. Robinson and J. P. Ford tenants.

Four lots in Georgeton, on Clinton street, improved, conveyed by Benjamin Johnson, consideration $4,000, Robert J. Ward tenant.

One lot in Georgetown, on Main street, improved, conveyed by Job Stevenson, consideration $1,000, Mrs Peak tenant.

2,000 acres of land on the waters of Benson, in Franklin county, unimproved, conveyed by the heirs of Robert Johnson, consideration $2,000.

One lot in Georgetown, on the south side of Main street, improved, conveyed by Edward P. Johnson, consideration $1,500, Amos Mowlan tenant.

107 acres of land on the Ohio river, six miles below Cincinnati, conveyed by James Johnson, consideration $4,280.

200 acres of land at the mouth of Craig's creek, on the Ohio river, Gallatin county, conveyed by James Johnson, consideration $8,000.

403 acres of land, two or three miles below the mouth of Salt river, on the Ohio, conveyed by James Johnson, consideration $8,000.

600 acres of land on the Dry Ridge, in the county of Grant, conveyed by James Johnson, consideration $6,000.

392 acres of land near Burlington, Boone county, unimproved, conveyed by James Johnson, consideration $4,800.

150 acres of land near Burlington, Boone county, unimproved, conveyed by James Johnson, consideration $3,000.

100 acres of land near Burlington, Boone county, unimproved, conveyed by James Johnson, consideration $2,000.

Four lots, Nos. 37, 38, 71 and 130, in Burlington, conveyed by James Johnson.

One lot, No. 9, in Burlington, a small brick house, conveyed by James Johnson, John Chinn tenant.

900 acres of land near the mouth of Eagle creek, Gallatin county, conveyed by James Johnson.

Lot of ground in Georgetown, at the south-west corner of Main Cross and South streets, improved, conveyed by Ben. S. Chambers, consideration $1,505, Mrs. Plummer tenant.

101 acres of land on Boone's fork of Benson, Franklin county, mortgaged by E. P. Johnson to the Bank of the United States, and purchased at sale under decree foreclosing, $800, John T. Wilson tenant.

Part of a lot on St. Clair street, Frankfort, improved, mortgaged by William Massie to the Bank of the United States, and purchased at sale under decree of foreclosure, $1,500, A. C. Keenon tenant.

Part of a lot on Montgomery street, Frankfort, improved, mortgaged to the bank by Richard Sebree and bought by the bank, $2,000, A. D. Spriggs tenant.

Part of a lot on Main Cross and Washington streets, Georgetown, improved, mortgaged to the bank by William Sebree and purchased by the bank, $1,200, H. Stiffee and Joseph Miller tenants.

Part of a lot on Main street, in Georgetown, fronting the court-house square, improved, mortgaged by R. J. Ward to the bank, and purchased at sale foreclosing, $3,000, Mrs. Hewitt tenant.

Part of a lot, 25 feet on Main and 50 feet on Hamilton street, in Georgetown, improved, mortgaged by William M. Nash to the bank, and purchased at sale foreclosing, $1,000, William Kelly tenant.

Part of a lot, 20 feet on Mill street, 50 feet back, in Lexington, improved, mortgaged by William M. Nash to the bank, and purchased at sale foreclosing, $1,000, J. & J. Boyer tenants.

A lot of ground containing about five acres, with good improvements, in Lexington, mortgaged to the Bank by Thomas January, and purchased by the bank at sale foreclosing, $5,000, Charles Caldwell tenant.

A lot at the corner of Montgomery and St. Clair streets, in Frankfort, improved, mortgaged to the bank by Richard Taylor, and purchased at sale foreclosing, $1000, Richard Taylor tenant—by Taylor leased to P. H. Darby.

A lot at the corner of Main and Spring streets, Lexington, and running back to Short street, improved, conveyed by Hiram Shaw, William E. Bain and E. Yeiser, $1,775 68, John M'Kinzie tenant.

A lot, corner of Market and Second streets, Lexington, valuable brick improvements, mortgaged by Thomas Bodley to the bank, and purchased by the bank at sale foreclosing, $5,000, Thomas Bodley tenant.

A lot on Wilkins' alley, 33 by 60 feet, in Lexington, a brick stable, &c. mortgaged by Thomas Bodley to the bank, and purchased by the bank at sale foreclosing, $200, T. Bodley tenant.

Three lots, Nos. 26, 27 and 35, in John Cocks' addition to the town of Lexington, unimproved, mortgaged by T. Bodley to the bank, and purchased by the bank at sale foreclosing, 31 dollars.

A lot on Short street, Market street and Church street, in Lexington, improved, mortgaged by Andrew M'Calla to the bank, and purchased by the bank at sale under decree to foreclose, $5,221, B. Gratz, Polly Adams, Mrs. Marsh, William West, Mrs. Plelin, Harry Quile, John Taylor, Edward Bateman and Samuel Tibbs tenants.

14 acres of land near Lexington, part of the farm formerly J. & D. Barton's, mortgaged by C. W. Cloud, to secure a debt due to the bank, and purchased by the bank at sale under decree to foreclose. 770 dollars, —— Peele tenant.

59¼ acres of land, Fayette county, improved, conveyed by C. S. Morton, $3,150, George W. Morton tenant.

14 1-4 acres of land, Fayette county, improved, conveyed by John H. Charles S. William R. and George W. Morton, 435 dollars, James Atcheson tenant.

21 acres and 54 poles of land in Lexington, improved, conveyed by John H. Charles S. William R. and George W. Morton, 5,000 dollars, James Shannon and William Ewing tenants.

186 acres and 132 poles of land in Fayette, improved, conveyed by William R. Morton, 9,300 dollars, William R. Morton tenant.

526 acres and 152 poles of land in Logan, improved, conveyed by George W. Morton, 2,600 dollars, A. Felts tenant.

A house and lot in Lexington, on Main street, conveyed by Charles Humphreys, 5,250 dollars, Thomas Kane tenant.

A house and lot in Lexington, on High and Spring streets, conveyed by Charles Humphreys, 2,250 dollars, Mrs. Moore and William Tomlinson tenants.

A house and lot in Lexington, on Short street, purchased at sale made by the marshal, on an execution against James Eades, in favor of the bank, 750 dollars, Joel Wallingsford tenant.

A house and lot in Lexington, on High and Mill streets, conveyed by Thomas Wallace, 5,000 dollars, Richard H. Chinn tenant.

A house and lot in Lexington, on Third street, mortgaged by Edward How to secure a debt due to the bank, and purchased at sale under decree to foreclose, 700 dollars, Edward How tenant.

16 acres, 2 roods and 20 poles of land, Fayette county, improved, conveyed by Samuel Blair, consideration 1,000 dollars, Mrs. Farrar tenant.

50 acres on the waters of M'Connell's run, Scott county, improved, mortgaged by John Montague, and purchased by the bank at sale under decree to foreclose, 200 dollars, J. T. and S. Thomasson tenants.

House and lot on Main street, in Georgetown, two brick houses, mortgaged by Henry Johnson and Hugh Offutt, and purchased by the bank under decree of foreclosure, 1000 dollars, Gorham and Rice, James W. Grant and Thomas Pullen tenants.

House and lot on Main street, Georgetown, mortgaged to the bank by B. S. Chambers, and purchased at sale under decree to foreclose, 500 dollars, Waller L. Woolfolk tenant.

House and lot on Upper street, Lexington, conveyed by J. M'Conathy, 1,500 dollars, Jacob M'Conathy tenant.

31 acres, 2 roods and 12½ poles of land in Lexington and Fayette county, conveyed by J. M'Conathy, $1,140 36, Isaac Ryner tenant.

114 acres, 2 roods and 17 poles of land, on the Town fork of Elkhorn, Fayette county, conveyed by J. M'Conathy, 2,500 dollars, Josiah Hunter tenant.

600 acres of land in Franklin county, conveyed by Daniel Weisiger, sen. Charles Buck and Joseph Weisiger, 7,000 dollars, Daniel Weisiger, jun. tenant.

1,000 acres on the Ohio river, near the mouth of Wolper creek, conveyed by John T. Johnson and Sabret Offutt, 6,000 dollars, bank not in possession.

House and lot, No. 8, in Burlington, conveyed by Richard M. Johnson, 3,000 dollars, tenant's name not known.

6 acres of land binding on the Woodford road, in Lexington; 4 acres in Lexington, between Royle's mill and the lot late the Lexington Manufacturing Company; 4 acres in Lexington, adjoining R. Higgins, Lewis Sanders, the Lead Company and M'Connell's land; 8 acres, 2 roods and 28 poles, near Lexington, on Town fork; 6 acres in Lexington, including the stone house formerly the Lexington Manufacturing Company, Lockerby, M'Onall & Pike and Hugh Loney tenants; 6 acres near or in Lexington, adjoining the Woodford road, C. Coyle's lot and Cock's mill lot; 6 acres near Lexington, adjoining lots 18 and 19, on Water street continued, &c. &c.; house and lot at north-west corner of Main and Mill streets, in Lexington; house and lot on Second street and Jefferson street, Lexington; an unimproved lot adjoining the above, in Lexington; the undivided half of a house and lot in Lexington, at the corner of Water and Main Cross streets, bank not in possession; a house and lot at the corner of Masterson and Mill streets, Mrs. M'Cullough tenant; part of lot No. 68, on High street, Lexington, William Dickerson tenant; part of lot on Constitution street, Mrs. M'Millan tenant; house and lot on Main Cross street, James Hamilton tenant; conveyed by James and Richard M. Johnson and Uriel Sebree, consideration 80,000 dollars.

House and lot on Mulberry street, Lexington, mortgaged by Matthew Elder to the bank, and purchased at sale under decree to foreclose, consideration 500 dollars, R. Grinstead tenant.

House and lot on Main Cross street, Georgetown, mortgaged by H. Offutt and Henry Johnson, Joseph Douglass and A. Green tenants. An arrangement with the mortgagors is pending or not finally closed, as to this property, and, therefore, the consideration is not stated.

House and lot at the corner of Main and Main Cross streets, Georgetown, mortgaged, but not foreclosed, George Brown tenant.

House and lot on Main street, adjoining Evans' tavern, Georgetown, mortgaged, but not foreclosed.

The prices at which the two last parcels are to be taken, are not known to the Agent, because the arrangements relative thereto, are not closed.

In addition to the above property, the following parcels have been purchased by the bank at sales under executions in its favor, but which the bank is not in possession of, nor is the title perfected by deeds to them, viz.

A house and lot on Water street, Lexington, sold by the marshal as the property of William Tod, for 500 dollars.

All the interest of John Smith to an unimproved tract of land containing about 1,125 acres, on the Ohio river, in Henderson's grant, sold by the marshal for 16 dollars; the legal title is in Mrs. Smith.

About 15 acres of land, including a merchant mill, in Fleming county, sold as the property of William Shackleford, for 750 dollars; title disputed.

Lots in Portwilliam—part of lot No. 227, lot No. 202, an undivided fourth part of in-lots in said town, Nos. 234, 229, 151, 99, 92, 219, 74, 267, 240, 142, 47, 291, 118, 76, 294, 84, 154, 295, 68, 177, 296, 41, 269, 271 and 225; also the fourth part of out-lots in said town, of 5 acres each, Nos. 10, 34, 59 and 61; sold by the marshal as the property of William S. Waller, for $59 25.

A house and lot in Mountsterling, sold by the marshal as the property of John Mason, jun. for 150 dollars.

About 239 acres of land in Jefferson county, sold as the property of Richard Steele, for 101 dollars; title disputed.

Officers at the Lexington Office.

Charles Wilkins, President; James Harper, Cashier; Isaac Bell, Clerk; Waldemard Mentelle, Porter; 6 Directors; Robert Wickliffe, Attorney; M. T. Scott, Land-Agent for the two offices.

(E.)

Auditor's Office, December 16th, 1825.

I do certify, that the taxes are all paid to this time, that are due on the property of the Bank of the United States, as listed in this office. Given under my hand, the date above.

THOMAS S. PAGE, *Clerk for*
P. CLAY, *Auditor.*

Which was received, read and laid on the table.

Ordered, That the public printers forthwith print 150 copies of said report and documents, (together with the message of the Governor of the 15th inst.) for the use of the members of this house.

Mr. Underwood, from the committee for courts of justice, made the following report:

The committee for courts of justice, to whom was referred so much of the Governor's message of the —— inst. as relates to the "Rules" lately adopted by the Federal Court, beg leave to submit the following report thereupon:

That the Supreme Court of the United States, by two recent decisions, in cases removed from the circuit court for the district of Kentucky, have, in their construction of the acts of Congress regulating and governing the final execution process issuing from the courts of the United States, decided that the said acts of Congress, in adopting the laws and regulations of the States respec-

tively, in relation to such execution process, adopted only such laws and regulations as were in force in the States respectively at the period when such acts of Congress were severally enacted; and that no law or regulation of the Legislature of any State, enacted subsequent to the passage of any such act of Congress, in any manner modifying or changing, or altogether repealing the laws so in force at the period when those acts of Congress were enacted, can in any degree affect the proceedings, or possess any binding or obligatory influence on the Federal tribunals. And the circuit court of the United States for the district of Kentucky, in conformity to the opinion, and under the authority and instruction of the said supreme court, has proceeded to frame and promulgate, in the shape and under the name of "Rules of Court," various laws and regulations in relation to the execution process to be issued on judgments which have or may be obtained therein, many of which Rules not only vary from the provisions contained in the acts of our State Legislature, enacted from time to time, but in many instances are in direct conflict and hostility with such legislative enactions; and the constitution of the United States, as well as that of the State of Kentucky, by the wisdom of its provisions in distributing the powers of government, having, in the most careful and emphatical terms, drawn the line of separation between the legislative and judicial branches of the government, inhibiting, in language the most explicit and peremptory, the exercise by either of those departments of the government, of powers assigned by the constitution to the other; and considering, as we do, the separation of these powers, thus established by the theory of our excellent constitution, as well in the National as in the State government, to be essential to the perpetuity of our republican institutions: Therefore,

Be it resolved by the House of Representatives of the Commonwealth of Kentucky, That they do most solemnly protest against the delegation by Congress to the Judiciary, of the power exercised by the courts of the United States, in the adoption of rules and regulations for the government of the execution and other process emanating from the said courts; and that they do deprecate, as violations of the true spirit and meaning of the constitution of the United States, as well as an infringement of the rights and liberties of the people of this State, the exercise of legislative powers of any description or character whatsoever, by the judicial tribunals of the United States.

Resolved further, That our love of the Union and our firm reliance on the virtue and intelligence of the general government, are sincere and undiminished, and that we look to it with confidence for the correction of all those errors or delinquencies which may have been committed, intentionally or unintentionally, in the long course of its administration.

It was then moved and seconded, to substitute the following preamble and resolutions in lieu of said report, viz.

The committee for courts of justice, to whom was referred the late message of the Governor, beg leave to report: That the late period of the session precludes a minute investigation of the important subjects embraced in said message, and the presentation of those reasons at length, which have led to the conclusions aimed at, in relation to the Rules of Court adopted by the Federal Judges for the district of Kentucky, and the Bank of the United States. They would nevertheless remark, that whatever evils may exist, arising either from the Rules of the Federal Court or from the Bank of the United States, they have sprung from the legislation of Congress, over which, the General Assembly of Kentucky has, and can have no direct control. It is true, that so far as the offices of discount and deposite of the Bank of the United States located in this State, are calculated to mar the public peace and prosperity, many of our own citizens, and even the Legislature itself, are not altogether without cause of self-condemnation. If the Bank was like the tree in the garden of Eden which bore the forbidden fruit, our own folly has caused us to taste of it. The consequence is, we now have knowledge of good and evil. If the Bank be the political Upas, that flings its deleterious effluvia all around, we have been instrumental in transplanting it; if it be Pandora's box, we have invited it to our country and opened it. There are those who have had their full share in these things, that now are most clamorous in their denunciations of it. Their opinions are changed, and we are willing to admit honestly. We will not proscribe any man for relinquishing an error in religion, morals or politics. Such a course does, in effect, amount to a stupid endeavor to entail upon mankind the delusions of every age, and to abandon the amelioration and improvement of his species, by adhering to usages and opinions which enlightened reason pronounces ridiculous; and while we can tolerate a change of opinion in regard to the Bank, and believe the individual so changing is honest, we cannot, as some do, denounce every one corrupt, who has changed his opinion in relation to the constitutionality of a retrospective replevin law. Precedents in behalf of retrospective replevins, are not so numerous as those in favor of Pagan idolatry, nor yet so numerous as those which are to be found in the history of the world, in favor of the divine right of Kings. Awful consequences to mankind spring from an acquiescence in such precedents as these. We have the names of our Washington, our Madison, and a host of other patriots, recorded in favor of a Bank of the United States; and whilst the late message urges some of these names as authority to justify retrospective replevin laws, his Excellency could not refrain from telling us, by stating his own vote, that they constituted no precedents

in favor of the Bank! As the Bible in religion, so ought our constitutions to be in politics, the text-books for the people; and it is the glorious privilege of a free citizen, to make his own comments, and to determine for himself, not being bound by the opinions of those who have lived before him. To obtain mental lights from great and good men, is the general duty; but to think and act for themselves, is the essential right of self-government, and the motto of a free people. And your committee do most firmly believe, that not only the Federal Court Rules and Bank of the United States, but retrospective replevin laws and the reorganizing act of last session likewise, have all, during the present year, met the condemnation of the people. Your committee have, as far as they have had power, been anxious to redress those evils which exist, subject to the healing hand of State legislation, and regret that they have been defeated. In regard to evils which have originated with the Federal authorities, your committee are disposed to act to the extent of their powers. For the present, they deem it proper to express their opinions, and appeal to Congress for redress. They therefore recommend the adoption of the following resolutions:

Resolved, That it is the deliberate opinion of the General Assembly of the Commonwealth of Kentucky, that Congress cannot, under the constitution of the United States, delegate legislative powers to the courts of the United States.

Resolved, That the Rules of Court adopted by the Judges of the Federal Court for the District of Kentucky, in many of their provisions, assume the character of direct legislation, and are therefore uniting with the judicial, legislative powers, contrary to the spirit of the constitution of the United States.

Resolved, That the vestiture of powers in corporations for banking purposes, is dangerous to the liberties of a free people, and that the powers possessed by the Bank of the United States, owing to its immense capital, are susceptible of being so used as to produce incalculable mischiefs.

Resolved, That the constitution of the United States, in the opinion of the General Assembly of the Commonwealth of Kentucky, does not expressly, or by fair implication, contain a delegation of power authorising Congress to create such a corporation as the Bank of the United States.

Resolved, That the constitution of the United States ought to be so amended, as to provide that Congress shall not create corporations with banking privileges, except within the District of Columbia; and that any such corporation created in that District, should not possess the power to locate offices of discount and deposite in any of the States.

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure

a repeal of those laws, under colour of which, the Federal Court for the District of Kentucky, acting under the sanction of a decision of the Supreme Court of the United States, have adopted their late Rules of Court.

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure an amendment to the Federal constitution, conformable to the fifth resolution.

Resolved, That his Excellency the Governor be requested to transmit copies of the foregoing preamble and resolutions to each of our Senators and Representatives in Congress.

Ordered, That the said report, together with the proposed amendment, be laid on the table; and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

Mr. Underwood, from the same committee, to whom was referred a bill regulating proceedings in actions of tort, reported the same without amendment.

The said bill was then ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Hall carry the said bill to the Senate, and request their concurrence.

Mr. Woodson, from the select committee to whom was referred a bill to give remedy against executors and administrators in certain cases, reported the same with an amendment; which being twice read, was disagreed to.

The said bill was then ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Fletcher—1. A bill to establish the town of Sharpsburg in the county of Bath, and for other purposes.

By Mr. Wingate—2. A bill to incorporate the Spring Creek Seminary, in Gallatin county.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Fletcher carry the said bills to the Senate, and request their concurrence.

On the motion of Mr. Brown,

Ordered, That leave be given to bring in a bill for the benefit of the Louisville Hospital; and that Messrs. Brown, Thomasson, Barbee and Cosby, prepare and bring in the same.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor did, on the 17th instant, approve and sign the following enrolled bills, which originated in the House of Representatives, viz. An act for the benefit of William B. Harrison; an act to repeal, in part, an act entitled "an act for the benefit of Zachary Conclude;" an act to amend the law in relation to delivery bonds; an act for the benefit of Henry Harlow and others; an act to compel owners and occupiers of land to fill up, or enclose or cover, pits or wells fallen into disuse; an act for the benefit of Eliza H. Eaches; an act for the benefit of Elijah Adkins; an act to alter the mode of appointing trustees to the Fleming Academy; an act to alter the times of holding certain courts; an act to establish election precincts in the county of Shelby; an act to change the time of holding the Muhlenberg county courts; an act to authorize a sale of part of the public square in Hartford; an act to authorize publications, &c. in certain newspapers; an act establishing the town of Williamstown, in Grant county; an act for the benefit of John Smoot; an act concerning the town of Bowlinggreen; an act to allow the Independent Banks further time to settle their concerns, and for other purposes; an act for the benefit of Richard T. Jones and wife; an act for the benefit of William N. Potts; an act further to regulate the election precincts of Breckinridge county; an act to amend an act entitled "an act further to regulate the town of Flemingsburg;" an act to amend an act entitled "an act to erect precincts in certain counties in this Commonwealth," approved December 30th, 1824; an act to amend the laws concerning the town of Columbus, at the Iron Banks; an act to authorize James Howe to build a mill-dam across Little Sandy river; an act to amend the law requiring clerks of courts to make out complete records in certain cases; an act to release lands belonging to Seminaries of learning from forfeiture, and to exempt them from the payment of taxes; an act to allow two additional justices of the peace to the county of Washington; an act further to regulate the Bank of Kentucky; an act to authorize Narcissa to contract for her freedom; an act for the benefit of John Cottrell and others; an act to change the sessions

of the Lincoln and Casey circuit courts; an act to allow an additional constable to Henry county; an act for the appointment of trustees for the town of Pikeville, in Monroe county; an act authorizing the trustees of county Academies, to draw their stock from the Bank of Kentucky; an act further to regulate the Jefferson Seminary; an act further to regulate the collection of debts due this Commonwealth; an act further to regulate the salaries of some of the officers of government; an act to authorize the trustees of the Franklin Academy, in the county of Mason, to sell part of the land belonging to said academy; an act to give the county of Spencer a county court in January next; an act granting further powers to the trustees of the town of Louisville, and for other purposes; an act for the benefit of John Caldwell and Thomas Tobin; an act to legalize certain proceedings of the Ohio county court, at their November term 1825; an act for the benefit of John Moore and others; and an act allowing justices of the peace a copy of the Digest of the Statutes of Kentucky in certain cases.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

A bill from the Senate, entitled "an act concerning the Court of Appeals," was read the first time, as follows, viz.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Court of Appeals shall hereafter consist of six Judges, to be appointed and commissioned by the Governor; one to be Chief Justice, and the others Judges of the Court of Appeals, and to take precedence according to the date of their commissions.

§ 2. *Be it further enacted*, That the said Judges shall, until the number shall be reduced to four, by death or otherwise, receive the annual salary of one thousand dollars, payable quarterly, out of any money in the Treasury not otherwise appropriated; and that whenever the number of Judges shall be reduced to four, the said Judges shall be entitled to receive the sum of fifteen hundred dollars annually, payable quarterly as aforesaid.

§ 3. *Be it further enacted*, That no vacancy shall be filled in said court, until the number shall be reduced to four, and until that event shall happen, four Judges shall be necessary to constitute a court, and when reduced to four, three Judges only shall be necessary to constitute a court.

§ 4. *Be it further enacted*, That the act entitled "an act to repeal the law organizing the Court of Appeals, and to re-organize a Court of Appeals;" and, also, an act entitled "an act to regulate the salaries of the Judges of the Court of Appeals," shall be, and the same are hereby repealed.

§ 5. *Be it further enacted*, That all laws in force on the 23d day of December, 1824, concerning the Court of Appeals, shall be, and the same are hereby revived and re-enacted, and declared to be in full force, except as otherwise herein provided.

§ 6. The salaries allowed by this act shall commence from the time the Judges accept their commissions; and this act shall be in force from and after the passage thereof.

And the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon by Messrs. Sanders and Breckinridge, were as follows, viz.

Yeas—Messrs. Barbee, Brown, Chenowith, Coombs, Crittenden, Fletcher, Fulton, Hall, Harvey, Haskin, Lackey, Lee, Logan, Martin, Maupin, Mayes, M'Clanahan, M'Cormas, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Thomasson, Wade, Ward, E. Watkins, Wingate and S. White—36.

Nays—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breck, Breckinridge, Bruce, Bruton, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Dyer, Elliston, Evans, Farmer, Ford, Gaines, Green, Grundy, Hansford, Hanson, Hardin, Hutchison, James, Marshall, M'Connell, Morris, New, Owings, Owsley, Payne, Reed, Skyles, Slaughter, Sterrett, Street, Robert Taylor, Z. Taylor, Timberlake, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—52

The house resumed the consideration of the amendments proposed by the Senate, to a bill from this house entitled "an act further to regulate the Bank of the Commonwealth."

It was then moved and seconded to amend said amendment by striking out therefrom the sum of $800, fixed therein as the salary of the cashier, and $600, as the salary of the clerk, and to give to each of said officers $1,000; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Samuel and Spalding, were as follows, viz.

Yeas—Mr. Speaker, Messrs. Bainbridge, Barbee, Bruce, Coleman, Cosby, Cowan, Cunningham, Duke, Dyer, Elliston, Farmer, Ford, Gaines, Green, Hall, Hansford, Hanson, Hardin, Haskin, Hutchison, Logan, Marshall, Maupin, Mayes, M'Connell, Morris, Napier, New, Owings. Owsley, Perrin, Reed, Skyles, Sterrett, Street, Tarlton, Robert Taylor, Timberlake, Underwood, Waddell, Wade, Ward, Wilson, A. White, Woodson and Yantis—47.

Nays—Messrs. Blackburn, Bruton, Chenowith, Coombs, Cox, Daniel, Davis, Dunlap, Evans, Fulton, Grundy, Harvey, Martin, M'Clanahan, M'Cormas, Miller, M'Millan, Nuttall, Payne, Prince, Samuel, Spalding, Z. Taylor, Thomas, B. E. Watkins, E. Watkins, Wingate and S. White—28.

The question was then taken on concurring in the said amendment of the Senate, as amended by this house, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Maupin and Spalding, were as follows, viz.

Yeas—Messrs. Barbee, Bruton, Chenowith, Coleman, Coombs, Cowan, Cox, Cunningham, Daniel, Davis, Dyer, Elliston, Fulton, Gaines, Hall, Hansford, Harvey, Haskin, James, Lackey, Marshall, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Morris, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Wade, Ward, B. E. Watkins, E. Watkins, Wingate and S. White—44.

Nays—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Brown, Bruce, Cosby, Crittenden, Duke, Dunlap, Evans, Farmer, Ford, Green, Grundy, Hanson, Hardin, Hutchison, Logan, Mayes, M'Connell, New, Owings, Owsley,

Payne, Reed, Skyles, Sterrett, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Underwood, Waddell, Wilson, A. White, Woodson and Yantis—39.

Ordered, That Mr. Spalding inform the Senate thereof, and request their concurrence in said amendment.

The amendments proposed by the Senate, to bills from this house of the following titles, were twice read and concurred in, viz. An act to establish an election precinct in the county of Meade; an act further to regulate certain circuit courts; an act to add a part of Pulaski county to the county of Whitley; an act for the benefit of Daniel Dougherty; an act concerning the turnpike road from Georgetown to Cincinnati; an act to alter the time of holding the Hart circuit and county courts, and to legalize the proceedings of the county court of said county, and also, to alter the time of holding the circuit and county courts of Edmondson, and to provide for running the lines of said county.

Ordered, That Mr. Spalding inform the Senate thereof.

The following engrossed bills were severally read a third time, viz. 1, An act to amend the law in relation to lunatics; 2, an act to amend the several acts respecting the turnpike road from the mouth of Triplett's creek to Big Sandy; and 3, an act concerning the road from Danville to the Tennessee line, in the direction of Murfreesborough.

Resolved, That the second bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. M'Connell carry the said bill to the Senate, and request their concurrence.

And the question being taken on the passage of the first and third bills, it was decided in the negative, the house being equally divided, and so the said bills were rejected.

The yeas and nays being required on the passage of the third bill, by Messrs. Hall and Maupin, were as follows:

YEAS—Mr. Speaker, Messrs. Bainbridge, Breck, Breckinridge, Brown, Cosby, Cowan, Davis, Dunlap, Gaines, Green, Grundy, Hanson, Hardin, Harvey, James, Lackey, Marshall, M'Cormas, Miller, M'Millan, Napier, Owsley, Perrin, Porter, Samuel, Sanders, Slaughter, Sterrett, Robert Taylor, Z. Taylor, Timberlake, Thomas, Thomasson, Underwood, Ward, Woodson and Yantis—38.

NAYS—Messrs. Barbee, Blackburn, Chenowith, Coleman, Cox, Crittenden, Cunningham, Daniel, Elliston, Evans, Ford, Fulton, Hall, Hansford, Haskin, Hutchison, Lee, Logan, Martin, Maupin, Mayes, M'Clanahan, Nuttall, Owings, Payne, Prince, Reed, Skyles, Spalding, Street, Turner, Waddell, Wade, B. E. Watkins, E. Watkins, Wilson, A. White and S. White—38.

The following bills were severally read a second time: 1, A bill to encourage the establishment of private schools; 2, a bill regulating the granting of injunctions by justices of the peace; 3, a bill so authorize purchasers of tobacco to export the same without inspection.

The first and third were ordered to be engrossed and read a third time, and the second was committed to a select committee of Messrs. Mayes, Underwood, Hanson, Davis and M'Connell.

And thereupon the rule of the house, constitutional provision and third reading of the first bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Blackburn carry the said bill to the Senate, and request their concurrence.

A message was received from the Senate, announcing the passage of a bill which originated in this house, entitled "an act to amend an act entitled, an act to incorporate the Louisville and Portland Canal Company."

The following engrossed bills were severally read a third time, viz. 1, An act to authorize the county court of Nicholas to permit gates to be erected across the State road between Joseph Morgan's and Benjamin Lawrence's; and 2, an act for the benefit of the Simpson Seminary, and for other purposes.

Resolved, That the said bills do pass; that the title of the first be amended to read "an act to authorize certain county courts to permit gates to be put across public roads;" and that that of the second be as aforesaid.

Ordered, That Mr. M'Clanahan carry the said bills to the Senate, and request their concurrence.

And then the house adjourned.

TUESDAY, DECEMBER 20, 1825.

Mr. Brown, from the select committee appointed for that purpose, reported a bill for the benefit of the State Hospital at Louisville, which was received and read the first time; and the question being taken on reading the said bill a second time, it was decided in the negative, and so the said bill was rejected.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate concur in the amendments proposed by this house, to a bill from the Senate, entitled "an act to extend the terms of certain circuit courts in this Commonwealth;" they concur in the amendments proposed by this house, upon concurring in those proposed by the Senate, to a bill from this house, entitled "an act further to regulate the Bank of the Commonwealth;" and they have passed bills which originated in this house of the following titles: An act to establish the town of Sharpsburg, in the county of Bath, and for other purposes; an act to authorise certain county courts to permit gates to be put across public roads, and an act to establish election precincts in Monroe county, and for other purposes—with an amendment to the latter bill. They have also passed a bill entitled "an act to authorise the trustees of Middletown to levy a tax," and have adopted a resolution

from this house, providing for the appointment of a joint committee to examine the Bank of the Commonwealth, and to cancel by burning, a portion of the notes issued by said Bank, with amendments; in which bill and amendments they request the concurrence of this house.

And then he withdrew.

Mr. James Allen, from the committee to whom was referred the report of the joint committee appointed to examine the Treasurer's office, made the following report:

The select committee to whom was referred the report of the joint committee raised to examine the situation of the Treasurer's office, have had that subject under consideration, and now submit the following report:

Your committee find the following to be the state of the treasury, at the several times hereinafter mentioned, to wit:

Samuel South, Treasurer of the State of Kentucky, DR.

For a balance of Commonwealth's money remaining in the treasury on the 10th day of October 1823,	12,981	87
Amount of Commnnwealth's money paid into the treasury from the 10th day of October 1823, to the 10th day of October 1824,	256,112	97
Amount of Commonwealth's money paid into the treasury from the 10th day of October 1824, to the 10th day of October 1825,	312,095	18
Amount of Commonwealth's money paid into the treasury from the 10th day of October 1825, to the 12th day of December 1825, inclusive,	62,219	64
Amount overdrawn from the Commonwealth's Bank, per certificate from the Bank, on the 12th day of December 1825,	13,326	80
Amount of $500 in silver and $20 Illinois money paid into treasury,	520	00
Total charge,	$657,256	46

CREDITOR.

By amount paid in Commonwealth's money, from the 10th of October 1823, to the 10th of October 1824,	305,562	38
Amount paid in Commonwealth's money, from the 10th of October 1824, to the 10th of October 1825,	302,072	33
Amount paid in Commonwealth's money, from the 10th day of October 1825, to the 12th day of December 1825, inclusive,	39,539	55

When a certificate of deposite is produced from the Bank of Kentucky, for $500 in silver and $20 in Illinois money,	520 00
	$647,694 26
Total amount charged against the Treasurer from the 10th October 1823, to the 12th day of December 1825, including $12,981 87, the amount of money which was in the treasury on the 10th day of October 1823,	657,256 46
Total amount of credits, from the 10th day of October 1823, to the 12th day of December 1825, inclusive, (when the Bank certificate is produced,)	647,694 26
Balance due the State, in Commonwealth's money,	$9,562 20

If the sum paid by the Treasurer, on the order of the Governor, for the reception and accommodation of General Lafayette, amounting to $8,086, be allowed as a credit to the Treasurer, then the balance remaining against him on the 12th day of December 1825, inclusive, is $1,476 20. This sum is accounted for by the Treasurer, as having been lost from the treasury on the 4th of November 1824, when the Capitol was consumed by fire. The joint committee assume it as a fact, that this loss was sustained, and predicate their opinion upon the report of the joint committee raised last year to enquire into that loss and the circumstances attending it. With due deference, however, to the opinion of the joint committee, expressed in their report which has been referred to this committee, it is believed that the joint committee of last year did not convey, or intend to convey the idea that they were satisfied of the loss of the money; and, therefore, your committee cannot, at this time, assent to that proposition. But your committee do not wish to be understood as positively denying that the money was lost; but only, that no evidence of that loss has been adduced to your committee. Your committee have taken the report of the joint committee of last year, as their data, from which they draw the conclusion that this sum of $1,476 20 ought not to be allowed as a credit to the late Treasurer, and for the better information of this house, they refer to the report of the joint committee of last year, already alluded to.

Your committee are impressed with the belief, that at this time to settle the question as to the right of the late Treasurer to have a credit for this sum, will result both to his benefit and to that of the State of Kentucky; they, therefore, recommend the adoption of the following resolution:

Resolved by the Senate and House of Representatives, That General Samuel South, late Treasurer of this Commonwealth, is, in the

opinion of this General Assembly, a public defaulter to this State, to the amount of fourteen hundred and seventy-six dollars and twenty cents.

The resolution recommended by said committee, was then twice read; whereupon it was moved and seconded to amend the same to read thus:

Resolved by the Senate and House of Representatives, That General Samuel South, late Treasurer, be discharged from further liability as late Treasurer of this Commonwealth.

And the question being taken upon adopting the proposed amendment, it was decided in the negative.

The yeas and nays being required thereon, by Messrs. M'Connell and Blackburn, were as follows:

YEAS—Messrs. Breck, Brown, Bruton, Coleman, Coombs, Elliston, Gaines, Hall, Haskin, Hutchison, Lackey, Lee, Maupin, M'Clanahan, M'Cormas, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Timberlake, Thomasson, Turner, Waddell, Ward, A. White and S. White—30.

NAYS—Mr. Speaker, Messrs. James Allen, Bainbridge, Blackburn, Breckinridge, Bruce, Chenowith, Cosby, Cowan, Dunlap, Dyer, Evans, Farmer, Ford, Gibson, Green, Grundy, Hansford, Hanson, Harvey, James, Logan, Martin, M'Connell, Miller, New, Owings, Owsley, Reed, Skyles, Slaughter, Spalding, Street, Robert Taylor, Z. Taylor, Thomas, Underwood, Wade, B. E. Watkins, E. Watkins, Wilson, Wingate, Woodson and Yantis—44.

The said report and resolution were then laid on the table.

Mr. Hanson, from the select committee to whom was referred a bill regulating the granting of injunctions by justices of the peace, reported the same with amendments; which being severally twice read, were concurred in, and the said bill, as amended, ordered to be engrossed and read a third time to-morrow.

Mr. Spalding, from the select committee to whom was referred a bill appointing commissioners to view and mark out a State road from Louisville to the Iron-Banks, reported the same without amendment.

Ordered, That the said bill be laid on the table.

A message from the Senate, by Mr. T. Ward:

Mr. Speaker—The Senate concur in the amendments proposed by this house, upon concurring in those proposed by the Senate, to a bill which originated in this house, entitled "an act to establish election precincts in certain counties."

And then he withdrew.

Mr. Brown, from the select committee to whom was referred a bill to repeal so much of the act entitled "an act to amend the law concerning ferries," as authorises the establishment of a ferry across the Ohio river, from the land of William L. Todd, reported the same without amendment.

Ordered, That the said bill be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Thomasson carry the said bill to the Senate, and request their concurrence.

Mr. Payne, from the joint committee of enrolments, reported that the committee had examined enrolled bills and a resolution of the following titles, and had found the same truly enrolled, viz. An act for the benefit of Daniel Dougherty; an act further to regulate certain circuit courts; an act to add a part of Pulaski county to the county of Whitley; an act concerning the turnpike road from Georgetown to Cincinnati; an act to amend an act entitled "an act to incorporate the Louisville and Portland Canal Company;" an act to alter the time of holding the Hart circuit and county courts, and to legalize the proceedings of the county court of said county, and also to alter the time of holding the circuit and county courts of Edmondson county, and to provide for running the lines of said county; and a resolution directing the burning of the Auditor's warrants for 1824.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Payne inform the Senate thereof.

The house took up the amendment proposed by the Senate, to a resolution from this house, providing for the appointment of a joint committee to examine the Bank of the Commonwealth, and to cancel by burning, a portion of the notes of said Bank; which was twice read.

It was then moved and seconded to amend said amendment, by striking out $300,000, (being the amount proposed to be burnt, with a view to fill the blank occasioned thereby, with $600,000;) and the question being taken thereon, it was decided in the negative, the house being equally divided.

The yeas and nays being required thereon by Messrs. Hanson and Carter, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Bruce, Bruton, Carter, Cowan, Dunlap, Evans, Farmer, Ford, Gaines, Green, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, M'Connell, Morris, New, Owings, Payne, Reed, Skyles, Slaughter, Street, Robert Taylor, Timberlake, Thomasson, Underwood, Waddell, B. E. Watkins, Wilson and Woodson—39.

NAYS—Messrs. Bainbridge, Barbee, Brown, Chenowith, Coleman, Coombs, Cosby, Cox, Davis, Dyer, Fulton, Grundy, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Napier, Nuttall, Owsley, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Z. Taylor, Thomas, Turner, Wade, Walker, Ward, E. Watkins, Wingate, S. White and Yantis—39.

The question was then taken on concurring in the said amendment of the Senate, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Marshall and Maupin, were as follows, viz.

YEAS—Messrs. Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Brown, Bruton, Coleman, Cosby, Cowan, Davis, Dunlap, Dyer, Elliston, Evans, Farmer, Ford, Fulton, Gaines, Gibson,

Green, Grundy, Hall, Hansford, Hanson, Hardin, Hutchison, James, Lackey, Logan, Martin, Maupin, Miller, Morris, Napier, Owings, Owsley, Payne, Perrin, Prince, Sanders, Skyles, Slaughter, Spalding, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, Woodson and Yantis—60.

NAYS—Messrs. Bruce, Carter, Chenowith, Coombs, Cox, Harvey, Lee, Marshall, M'Clanahan, M'Connell, M'Millan, Nuttall, Porter, Samuel, Thomas, Wingate and S. White—17.

Ordered, That Mr. M'Millan inform the Senate thereof.

A bill from the Senate, entitled "an act to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of the act re-organizing the Court of Appeals, passed 24th of December 1824, as creates the office of the fourth Judge of said Court," was read the first time and ordered to be read a second time; and thereupon, the rule of the house being dispensed with, the said bill was read a second time.

It was then moved and seconded to amend said bill, by striking out the whole thereof, after the enacting clause, and inserting in lieu thereof the following:

That so much of the act entitled "an act to regulate the salaries of the Judges of the Court of Appeals, and for other purposes," approved sixth of January 1825, as provides that the Chief Justice of Kentucky and the Associate Justices of the Supreme Court, who should thereafter be commissioned under the provisions of an act approved December 24th, 1824, entitled "an act to repeal the law organizing the Court of Appeals, and to reorganize a Court of Appeals," should each receive an annual salary of two thousand dollars, to be paid to them respectively quarter yearly out of the public treasury, shall be, and the same is hereby repealed.

§ 2. That the Judges of the Court of Appeals shall hereafter receive an annual salary of twelve hundred dollars, payable quarter yearly out of any money receivable for public revenue.

It was then moved and seconded to amend said amendment, by inserting after the word "Appeals," in the first line of the second section, the words "*appointed in virtue of the afore mentioned acts;*" and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs Wade and Hanson, were as follows, viz.

YEAS—Messrs. Barbee, Carter, Chenowith, Coombs, Elliston, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Wade, Ward, Wingate and S. White—29.

NAYS—Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Davis, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, M'Connell, Morris, Owings, Owsley, Payne, Skyles, Slaughter, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, Woodson and Yantis—48.

The question was then taken upon adopting the original amendment, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Spalding and Hanson, were as follows, viz.

YEAS—Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Davis, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, M'Connell, Morris, Owings, Owsley, Payne, Skyles, Slaughter, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, Wilson, Wingate, S. White, Woodson and Yantis—49.

NAYS—Messrs. Barbee, Carter, Chenowith, Coombs, Elliston, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Thomas, Wade, Ward and E. Watkins—27.

The said bill, as amended, was then ordered to be read a third time; and thereupon, the rule of the house and constitutional provision being dispensed with, the said bill was read a third time as amended.

The question was then taken upon the passage of said bill as amended, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Green and Wade, were as follows, viz.

YEAS—Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Coleman, Cosby, Cowan, Cox, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundry, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, M'Connell, New, Owings, Owsley, Payne, Skyles, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, B. E. Watkins, E. Watkins, Wilson, Wingate, Woodson and Yantis—51.

NAYS—Messrs. Barbee, Carter, Chenowith, Coombs, Elliston, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Millan, Napier, Nuttall, Perrin, Porter, Samuel, Sanders, Spalding, Tarlton, Thomas, Wade, Ward and S. White—26.

Ordered, That Mr. Hanson inform the Senate thereof, and request their concurrence in said amendments.

A message from the Senate, by Mr. Hughes:

Mr. Speaker—The Senate have passed bills which originated in this house, of the following titles: An act to continue in force an act providing for the appointment of Commonwealth's Attorneys, and an act for the appropriation of money, with amendments to the latter bill, in which they request the concurrence of this house.

And then he withdrew.

The amendments to the latter bill were then taken up and read, and a part thereof concurred in.

The following amendment proposed by the Senate to said bill, was also read, viz.

To the trustees of the Augusta College, for the purpose of purchasing books and philosophical apparatus for said institution, $1,000, to be paid out of the Literary fund, and to be charged against the county of Bracken.

It was then moved and seconded that this house disagree to the said amendment of the Senate; and the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Hardin and Carter, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Blackburn, Breck, Bruce, Bruton, Chenowith, Coombs, Cosby, Cox, Daniel, Davis, Duke, Dunlap, Elliston, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hanson, Hardin, Harvey, Hutchison, James, Martin, Mayes, Miller, Morris, Nuttall, Owings, Owsley, Reed, Samuel, Skyles, Slaughter, Spalding, Z. Taylor, Timberlake, Thomas, Turner, Wade, Walker, Wilson, A. White, S. White and Yantis—48.

NAYS—Messrs. Breckinridge, Brown, Carter, Coleman, Fulton, Hall, Haskin, Lackey, Logan, M'Clanahan, M'Millan, Payne, Perrin, Porter, Prince, Tarlton, Robert Taylor, Underwood, Waddell, Ward, Wingate and Woodson—22.

Ordered, That Mr. M'Millan inform the Senate thereof.

The following engrossed bills were severally read a third time, viz. 1. An act to alter the mode of disposing of the vacant lands of this Commonwealth; 2. an act for the benefit of Robert Davis; 3. an act to prohibit the appropriation of a part of the vacant land in this Commonwealth; 4. an act to amend the several laws regulating the towns of Harrodsburg and Richmond.

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That the Clerk carry the said bills to the Senate, and request their concurrence.

The following bills from the Senate were severally read a second time, viz. 1. An act to provide for the distribution and preservation of the public law books; 2. an act to repeal the fourth section of an act to amend an act regulating endorsements on executions, approved December 21, 1821; 3. an act to provide for binding out poor free children of colour; 4. an act to amend an act au-

thorising the sale of the vacant land between Walker's line and the latitude 36° 30′ north, in the State of Tennessee, and for running and marking the latitudinal line.

The 1st, 3d and 4th (the 3d having been amended) were ordered to be read a third time, and the 2d was laid on the table.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 3d and 4th bills having been dispensed with,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Coleman inform the Senate thereof, and request their concurrence in the amendments proposed to the third bill.

The amendments proposed by the Senate, to a bill which originated in this house, entitled "an act to establish election precincts in Monroe county, and for other purposes," were twice read and concurred in.

Ordered, That Mr. M'Millan inform the Senate thereof.

A bill from the Senate, entitled "an act for the benefit of Cassandria Abrell, widow of Jacob Abrell, sen. deceased, and the heirs of James Francis Moore," was read a third time as amended.

Resolved, That the said bill as amended do pass.

Ordered, That Mr. Brown inform the Senate thereof, and request their concurrence in said amendments.

The following bills were severally read a second time, and ordered to be engrossed and read a third time. viz. A bill for the benefit of Peter Carr, and a bill to authorise Samuel Shannon to sell a slave owned by his ward, Mary Shannon.

And thereupon the rule of the house, constitutional provision and third reading of said bills having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as aforesaid.

Ordered, That Mr. Brown carry the said bills to the Senate, and request their concurrence.

The following bills from the Senate were severally read the first time, viz. 1. An act for the benefit of Robert Bleaky, late sheriff of Meade county; 2. an act to provide for holding a chancery term in the county of Nicholas; 3. an act for the benefit of J. R. Given, late sheriff of Caldwell county; 4. an act to appoint commissioners to examine and receive the improvements made on the Louisa fork of Sandy river; 5. an act to add a part of the county of Barren to the county of Allen; 6. an act to authorise the clerks of the M'Cracken county and circuit courts to transcribe certain records; 7. an act for the benefit of the heirs of Achilles Sneed, deceased; 8. an act for the benefit of Elijah Combs, of Perry county; 9. an

act to legalize the proceedings of William Hickman and Orson Morrow, of Simpson county; 10. an act for the appropriation of the surplus funds of militia fines in the hands of the paymaster of the 59th regiment of Kentucky militia; 11. an act for the benefit of James Rouse and others; 12. an act for the benefit of Thomas Hinds and others; 13. an act for the benefit of Massey Anderson; 14. an act to alter the time of electing Representatives to Congress; and 15. an act for the divorce of John W. and Fanny Brite.

The 1st, 2d, 3d, 4th, 5th, 6th, 10th, 11th, 12th, 13th and 14th bills were ordered to be read a second time; the 15th was laid on the table; and the question being taken on reading the 7th, 8th and 9th bills a second time, it was decided in the negative, and so the said bills were rejected.

Ordered, That the Clerk inform the Senate thereof.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 4th, 5th, 6th, 10th, 12th, 13th and 14th bills having been dispensed with, the said bills (the 3d and 6th having been amended) were ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 2d, 3d, 4th, 5th, 6th, 10th, 12th and 13th bills having been dispensed with,

Resolved, That the said bills do pass, the 3d and 6th as amended.

Ordered, That the Clerk inform the Senate thereof, and request their concurrence in the amendments proposed to the 3d and 6th bills.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor has this day approved and signed the following enrolled bills and resolution, which originated in the House of Representatives, viz. An act to amend an act entitled "an act to incorporate the Louisville and Portland Canal Company;" an act further to regulate certain circuit courts; an act to add a part of Pulaski county to the county of Whitley; an act for the benefit of Daniel Dougherty; an act concerning the turnpike road from Georgetown to Cincinnati; an act to alter the time of holding the Hart circuit and county courts and to legalize the proceedings of the county county court of said county, and also, to alter the time of holding the circuit and county courts of Edmondson, and to provide for running the lines of said county; an act to establish an election precinct in the county of Meade; a resolution directing the burning of the Auditor's warrants on the Treasury for 1824.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

A message from the Senate, by Mr. Ward:

Mr. Speaker—The Senate concur in the amendments proposed by this house, to bills from the Senate of the following titles: An act to provide for binding out poor free children of colour, and an act for the benefit of Joseph R. Given, late Sheriff of Caldwell county. They have passed bills which originated in this house, of the following titles: An act to incorporate the Spring Creek Seminary in Gallatin county, and an act for the benefit of the Simpson Seminary and for other purposes—with amendments to the latter bill. And they have passed a bill entitled "an act for the benefit of John Bevins;" in which amendments and bill they request the concurrence of this house.

And then he withdrew.

The amendments offered by the Senate, to a bill from this house, entitled "an act for the benefit of the Simpson Seminary, and for other purposes," were taken up, twice read and concurred in.

Ordered, That Mr. M'Millan inform the Senate thereof.

And then the house adjourned.

WEDNESDAY, DECEMBER 21, 1825.

Mr. Crittenden, from the committee for courts of justice, made the following report:

The committee on courts of justice, to whom was referred so much of the Governor's message as concerns the Judiciary, submit the following report:

That part of the Governor's message which relates to the Court of Appeals, and forms the subject of the present report, contains a history of the causes which led to the passage of the re-organizing act, and to the troubles and controversies in relation to its judiciary, in which the country is involved. Forbearing to discuss the policy of the relief laws, as they are called, the message states that one of those laws granted to the defendant a replevin of two years, upon all executions where the plaintiff would not consent to receive the currency of the State; that this act was decided to be unconstitutional by our Court of Appeals, and that the decision being unpopular and offensive to the Legislature, attempts were made to remove those Judges by address; that a majority of two thirds not concurring, these attempts failed; and finally, "to end the controversy and rid the country of those erroneous and dangerous principles, (the principles in the judicial decision above mentioned,) the majority now deemed it necessary to resort to a supposed constitutional power, and passed an act abolishing the Court of Appeals and establishing another, composed of other men;" and that in pursuance of this act, commonly called the re-organizing act, a new court had been constituted, and had taken

upon itself to exercise the functions and jurisdiction of the Court of Appeals of Kentucky. The Governor expresses his entire conviction of the constitutionality of the re-organizing act, and considers it as supported by the opinions of the ablest statesmen, by precedent and by principle. But notwithstanding all this mass of authority, appealed to, to justify and vindicate this act, the message acknowledges, that instead of quieting the country, it had contributed "to fill it with new agitations;" and to allay these agitations, the Governor recommends as a measure of compromise, that the Judges of both the old and new courts should resign, and promises, in that event, the appointment of "an entire new set of appellate Judges," selected equally from the two contending parties.

Such is a brief summary of so much of the message as is believed to be necessary to present a full and fair view of the subject, which so fearfully agitates this country and its councils. The question of controversy is one of no ordinary magnitude. It is, whether the re-organizing act is constitutional, or whether the Legislature, in its enactment, have not assumed and exercised a power not delegated by the people, but prohibited by the letter and spirit of the constitution. It is, in effect, a question as to the competency of one department of the government to destroy another; the competency of the Legislature to abolish the Court of Appeals, to strike it from its high place in the constitution, and make it the *mere creature* of legislation. The practical consequences of such a power, as displayed in the first instance of its exertion—its obvious tendency to consolidate, virtually, the different departments of the government, and to endanger all those individual rights, which depend for their security upon the constitution, and upon the integrity and independence of the judiciary, demonstrate the high importance of the question, and claim for it the serious and solemn consideration of every citizen.

The Court of Appeals is the great head and fountain of the law and justice of Kentucky, as applied to the controversies of her citizens; all inferior courts, whatever may be their modification or name, are subject to its superintendence and control. It is of comparatively little consequence, what system of inferior courts is established, so long as the supreme court, which presides over, and gives light and direction to all, possesses the firmness, integrity and intelligence that become its high station.

When the Judges of that court shall become servile and dishonest; when they shall be made to consult their own security, by obeying power rather than right; then, indeed, is the administration of law and justice poisoned in its very fountain, and its baneful influence spreads through the whole judicial system.

No man of reflection can fail to perceive, how incalculably important it is to the welfare of every community, that the head of

its judiciary should be distinguished by its stability, its integrity and its intelligence. By *commanding* the Legislature to give adequate salaries to the Judges; by directing that those Judges should hold their offices *during good behaviour*, and that they should be removed from office only by address or impeachment, and requiring, in either mode, the concurrence of two thirds of those by whom the sentence of removal was to be pronounced, the framers of the constitution believed that they had done every thing that was essential to ensure to the public able, and experienced, and upright Judges, and to protect the independence of that tribunal, against the legislative power; and such, it is confidently believed, was the opinion entertained of our constitution, by all men, at all times, until very recently; when in the midst of the fierce contentions of parties, that one which was predominant in the Legislature at its last session, first boldly asserted the power, scarcely thought of or whispered before, to abolish the Court of Appeals and remove its Judges from office, by a simple act in the ordinary form of legislation, and passed by a bare majority, without more solemnity or ceremony than would be used in the passage of a law to legalize the proceedings of a county court. This newly discovered power, which had for so many years lurked concealed in the constitution, was not long permitted to remain inactive. The same party by whom the discovery was made, had just failed in an attempt to remove the Judges by address; but spurning all restraints and considerations that would impede them, they at once accomplished, or attempted to accomplish their object by an act of assembly, which purported to abolish the Court of Appeals, to vacate the offices of its Judges and Clerk, and to re-organize or re-establish the same court, with a new set of Judges and a new Clerk. The great object of the Legislature in passing this act, was, to get rid of the Judges. They had rendered themselves obnoxious to a majority of the Legislature, by deciding the two years' replevin law to be contrary to the constitution of the United States and void, and nothing short of their prostration would satisfy that majority. In vain did the minority in the Legislature invoke the constitution, and endeavor to divert the majority from its purpose, by offering to concur in any reasonable modification of the laws regulating that court; by offering to unite with them in adding a fourth Judge to the court, then consisting of three, and in requiring the concurrence of all of them to every decision against the constitutionality of any act of the Legislature. These overtures were treated with ridicule and rejected by the majority, in the pride and confidence of their strength. The act was passed. Previous to its passage, however, its advocates had omitted nothing which could prepare the public mind for its favorable reception. The Judges of the Court of Appeals were denounced in almost every

form of language that could render them obnoxious and odious to the people, and prepare them for the sacrifice. Resolutions, with long preambles, were adopted in the Legislature, and widely and industriously distributed, in which the Judges were reviled and the people flattered; in which new and strange theories concerning our government were advanced, and attempted to be "chrystalized into law," by a learned and mysterious phraseology, and in which the lessons of democracy taught by the venerable *federal* author of the preamble and resolutions, are designed to persuade the people of Kentucky, that their pride and sovereignty are concerned in attributing supremacy to their Legislature; that the people are sovereign, and that the people and their representatives are one and the same; and, in fine, to inculcate the doctrine, that "among free governments, that is *freest*, in which no restraint upon its legislative power is to be found in its constitution, which is not ESSENTIALLY necessary to *its existence and well being*." The cat that was transformed into a princess, still retained her appetite for mice. The federalists of former times, could not bear the "restraints" of the constitution. If they wanted to raise a standing army, the republicans told them, the constitution restrained them; if they wanted to check the saucy liberty of speech, and of the press, then used by the republicans, they were told of the "restraints" of the constitution. They disdained to submit to these restraints, and for their disregard of them, were hurled from their power; and so fixed and indelible has become their dislike to all "restraints" upon governments, that they retain it under every transformation, and even when changed into democrats, they cannot always forbear the involuntary exhibition of their ancient antipathy. The old doctrine—the doctrine of the republicans, once was, that a government without any restraints upon its legislative power, was a *despotism;* that governments receded from or approached towards despotism, in proportion as those restraints were more or less numerous; and that the people who did not chain down their rulers, would soon be chained down by them. But this was not the doctrine of the famous preamble above alluded to. It taught a lesson more favorable to legislative domination, more congenial to the occasion, and to the purpose then in view. It opened the way for the passage of the re-organizing act, and was the harbinger and precursor of that kindred measure. With all this preparation to prepossess and engage the public mind, the re-organizing act was passed, and the Judges cast back by the Legislature and Governor, upon the people, covered with denunciations, preambles and resolutions, as with a winding sheet. The minority of the Legislature entered a solemn protest against the act, as unconstitutional and void. The Governor, however, immediately proceeded to appoint new Judges, and there was presently seen rising from this scene of anarchy and confusion, and,

as it were, from the ruins of the constitution, a new tribunal, which assumed the character and functions of the Court of Appeals, and its pretended Judges having met together in that character, proceeded to organize themselves as a court, appointed a new clerk, although Achilles Sneed, Esq. since deceased, was then and had been for many years clerk of the Court of Appeals, and had never been removed from office; and by their order caused the public records and papers, appertaining and belonging to his office, to be seized and violently taken from his possession, and transferred to their newly appointed clerk, who has ever since and yet retains possession of them. Notwithstanding the passage of the said act, and the violent seizure of the records, &c. above mentioned, by this new legislative court, (all of which occurred during a recess of the constitutional court,) the Judges of the latter tribunal met, according to adjournment, in February last. Owing to the novel and extraordinary circumstances which had occurred, to the state of anarchy and confusion which prevailed, the Judges determined to forbear any attempt to recover their records, &c. and adjourned until the next regular term of the court. Lest this course of proceeding, however, should be regarded by any as a recognition, on their part, of the validity of the act by which it had been attempted to legislate them out of office, or as their submission to the unconstitutional domination of the Legislature, in a public address to the people of Kentucky, they declared their opinion that the act was unconstitutional, and that as the sworn ministers of the people and the constitution, they were bound in conscience and in duty to refuse obedience to it; and they appealed to the people to decide upon the constitutionality of said act, and to settle the great question of power between the several departments of their own government. At the spring term of the Court of Appeals, both the constitutional and legislative Judges assembled at Frankfort and formed separate courts. The constitutional Judges, after continuing in session for a few days, adjourned until the ensuing fall term, determined to be regulated in their course of conduct, by the decision which the people should pronounce at their general election of representatives, to be holden in the intervening month of August. From the passage of the re-organizing act until the last election, the situation of the Judges of the constitutional court, was painful, delicate and arduous. An overwhelming majority in the General Assembly, co-operating with the Governor, and assuming to act in the abused name of the people, had declared that they were no longer Judges, and had taken from them all the salary that had by law been annexed to their offices. Added to these fearful odds, torrents of invective and abuse were poured upon them. Weaker or less virtuous men, would have sought shelter from such a storm, and would have consulted their own ease and safety by surrendering themselves and the constitution of

the country; but they were not made of such pliant and treacherous materials. Fearless of personal consequences, they pursued the path of duty with a mild and patient fortitude and integrity, that must hereafter command the gratitude and applause of a free and generous people. Though cast down and overborne by the rude hand of power; though disabled from performing their high functions, we behold these venerable men, meeting, time after time, regardless of the scoffs and mocks of the unworthy, to show their persevering duty and devotion, and to follow, like mourners, the remains of a violated constitution.

In the midst of this momentous and agitating scene, the general election of members to serve in the present House of Representatives, approached. In almost every county of the State, candidates were arrayed for and against the constitutionality of the re-organizing act. The subject was every where discussed and seemed to absorb in the public mind, all other considerations and interests; all parties had concurred in referring it to the people, as the rightful and proper arbiters, and the result of the election was looked to as decisive of the great question of controversy. On the one side of the question (in favor of the constitutionality of the act) were arrayed, the Governor and the majority of the last Legislature, with all their power, patronage and reputation, followed by the long train of those who were in the enjoyment of their favors, or hoped to obtain them by signalizing themselves in the conflict. On the other side of the question, were the three Judges of the Court of Appeals, officers comparatively without power or patronage, men long sequestered from the public view, by the silent and useful duties of their office, and who, from a sense of delicacy and decorum, refrained from any active participation in the contest. Such was the inequality of the parties, who seemed most directly and personally engaged in the controversy. But the Judges were made strong in the *strength of the people and the people's constitution*. The days of the last election, were days of triumph for republican principles and the people. The election of more than sixty representatives opposed to that act, out of the hundred that compose the popular branch of the Legislature, sufficiently attests the opinion of the people, that it is unconstitutional and void.

Such a result could only be considered as decisive of the question; and it was confidently to be hoped, that all the functionaries of the government would conform themselves to the *sovereign voice* of the people; that the new legislative court would disappear; that the re-organizing act would be repealed, and peace and constitutional government restored to an agitated and distracted country. But these hopes and expectations have not been so far fulfilled. The legislative Judges, as if they had not heard the *thundering voice* of the people, or as if they were disposed to act in de-

fiance of it, have still affected to hold their sessions as the Court of Appeals; and the Governor, in his message, so far from recommending a repeal of the obnoxious act, has, in the most solemn manner, proclaimed his opinion of its constitutionality, and by the whole tenor and spirit of his message, manifested such a repugnance and opposition to the decision of the people, as to leave us little hope, even of his concurrence in any repealing act. Such an opinion, pronounced by the Chief Magistrate of the State, in direct opposition to the opinion of the people, and under circumstances of delicate and high responsibility, must convince us all, that his Excellency is thoroughly satisfied of the soundness of his opinion, or that he would not have proclaimed it at a time like this, when it might be understood as intended to stimulate and embolden others, out of complaisance to him, in their opposition to the public will. The opinion of the Governor is entitled to weight, and to the most respectful consideration. Your committee have, as far as they were capable, examined the subject, and constrained as they are to differ with his Excellency, they feel it their duty to submit to the house, some of those views and arguments upon which their own opinion is founded. In the view they propose to present, they will refer to those great political principles, which, from their general adoption throughout the United States, may emphatically be termed *American*.

All political power is original and inherent in the people. It is for the protection of their rights and liberties, and the promotion of their happiness and welfare, that governments are instituted; and to the people it belongs, to prescribe the forms and powers of their government, and to control its operation. No wise people would ever transfer all their power to their government, or place at its disposal, all their rights. The moment they should do so, they would be slaves. On the contrary, they would carefully guard against tyranny and arbitrary authority, by limiting the powers of their government, granting such only as were necessary to promote their happiness and welfare, and retaining all others in their own hands. But the most careful limitation of the powers of government would not alone be sufficient long to preserve the liberties of the people, if those limited powers were confided to any single magistrate or body of magistracy. Who would confine them to their limit, or check their usurpations? The continual tendency of their power would be to enlarge itself, and finally to shake off all restraint. The history of the world shows the progress of all such governments, and that by force or fraud, by sudden or gradual encroachments, they have prevailed over the liberties of the people. To limit the powers of government, then, is not enough. Even the most limited mass of powers that is essential to government, and must be granted to it, is too strong for the people, when concentrated in a single magistrate or

body of magistracy. The remedy for this is plain and easy in theory, however difficult it may be in practice. It is, to weaken these powers by division, and instead of granting them all to one, to distribute them among several bodies of magistracy, and so to organize those bodies as to make it the duty and interest of each to check the others in any usurpation or encroachment. Such are the lessons that are taught by reflection and experience, by reason and by history. Distinguished political writers of other countries, and the sages and patriots of our own, have inculcated the same doctrine. The separation of the powers of government into distinct departments, and such an arrangement of those departments as to prevent any one from being crushed by the disproportioned weight of the others, and to make them operate as mutual checks, have been the favorite maxims of the most enlightened statesmen and patrons of liberty. The celebrated Montesquieu lays it down as an axiom or first principle in politics, that "*there can be no liberty* where the legislative and executive powers are united in the same person or body of magistrates," or "*if the power of judging be not separated from the legislative and executive powers.*"

In page 261 of the Federalist, Mr. Madison, one of the authors of a series of letters written in the year 1788, to recommend to the several States the adoption of the federal constitution, gives his high and unequivocal sanction to the doctrine of Montesquieu, and after declaring that "*no political truth*" is of "*greater intrinsic value*," he proceeds to say: "The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few or *many*, and whether hereditary, self-appointed or *elective*, may justly be pronounced the very definition of *tyranny*. Were the federal constitution, therefore, really chargeable with this accumulation of power, or with a mixture of powers, having a dangerous *tendency* to such an accumulation, no further arguments would be necessary, to inspire an universal reprobation of the system." In page 268 of the same book, the same writer, speaking of the three departments of government, the legislative, executive and judiciary, states it as an evident truth universally agreed to, "that, in reference to each other, neither of them ought to possess, *directly* or *indirectly*, an *overruling influence* in the administration of their respective powers;" and in the same letter he declares, that experience had assured us, that mere "parchment barriers," or the most precise delineations of the boundaries of these departments in the constitution of government, were insufficient to restrain the encroaching spirit of power, and to protect the feebler against the more powerful members of the government. And after recommending further constitutional securities to guard the independence of those feebler members, he states, that "the legislative department (in the State governments) is everywhere extending the sphere of its activity, and *drawing all power*

into its impetuous vortex." And he further proceeds to say, that "it is against the enterprizing ambition of this department, that the people ought to indulge *all their jealousy*, and exhaust *all their precautions.*"

Mr. Jefferson, in his "Notes on the State of Virginia," complaining of the constitution of that State and of the too great accumulation of power in her Legislature, says: "All the powers of government, legislative, executive and judiciary, result to the legislative body. The concentrating these in the same hands, is precisely the definition of despotic government. It will be no alleviation. that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots, would surely be as oppressive as one. Let those who doubt it, turn their eyes on the Republic of Venice. As little will it avail us, that they are chosen by ourselves. An elective despotism was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so *divided* and *balanced among several bodies of magistracy*, as that no one could transcend their legal limits, without being *effectually checked* and restrained by the others. For this reason, that convention which passed the ordinance of government, laid its foundation on this basis, that the legislative, executive and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The *judiciary* and *executive* members were left *dependant* on the legislative, for their *subsistence* in office, and some of them, for their *continuance* in it. If, therefore, the Legislature assume executive and judiciary powers, no opposition is likely to be made, nor if made, can be effectual; because, in that case, they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy; and the direction of the Executive, during the whole time of their session, is becoming habitual and familiar."

The late Colonel George Nicholas, in a political letter written by him in the year 1798, arguing to show the security to liberty which resulted from the division of the government into separate departments, and the mutual restraints they exercised over each other, states, that Hamilton had reasoned on this subject "as well as it was in the power of man to do," and then proceeds with the following quotation from him: "The complete independence of the courts of justice, is peculiarly essential in a limited constitution. By a limited constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no *ex post facto*

laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the constitution, void. Without this, all the reservations of particular rights or privileges would amount to nothing.

"Some perplexity respecting the right of the courts to pronounce legislative acts void, because contrary to the constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged, that the authority which can declare the acts of another void, must necessarily be superior to the one whose acts may be declared void. As this doctrine is of great importance in all the American constitutions, a brief discussion of the grounds on which it rests, cannot be unacceptable.

"There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the constitution, can be valid. To deny this, would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do, not only what their powers do not authorise, but what they forbid. If it be said, that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the constitution. It is not otherwise to be supposed, that the constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational, to suppose that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, *to keep the latter within the limits assigned to their authority.* The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be regarded by the Judges as a fundamental law. It, therefore, belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcileable variance between the two, that which has the superior obligation and validity, ought of course to be preferred; or, in other words, the constitution ought to be preferred to the statute—the intention of the people, to the intention of their agents.

"Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will

of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the constitution, the Judges ought to be governed by the latter, rather than the former; they ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental. This exercise of judicial discretion in determining between two contradictory laws, is exemplified in a familiar instance. It not uncommonly happens, that there are two statutes existing at one time, clashing in whole or in part with each other, and neither of them containing any repealing clause or expression. In such a case, it is the province of the courts to liquidate and fix their meaning and operation. So far as they can, by any fair construction, be reconciled to each other, reason and law conspire to dictate that this should be done; where this is impracticable, it becomes a matter of necessity, to give effect to one in exclusion of the other. The rule which has obtained in the courts for determining their relative validity, is, that the last in order of time, shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law, but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision, but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable, that between the interfering acts of an equal authority, that which was the last indication of its will, should have the preference.

"But in regard to the interfering acts of a superior and subordinate authority, of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that, accordingly, whenever a particular statute contravenes the constitution, it will be the duty of the judicial tribunals to adhere to the latter, and disregard the former.

"It can be of no weight, to say, that the courts, on the pretence of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes, or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it proved any thing, would prove that there ought to be no judges distinct from that body."

General Washington, in his valedictory address to the American people, bequeathing to them the paternal lessons of his wisdom and experience, says: "The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it in different depositories, and constituting each the guardian of

the public weal, against invasions by the others, has been evinced by experience, ancient and modern. The spirit of encroachment tends to consolidate the powers of the departments into one, and thus to create, *whatever the form of government, a real despotism.*"

In the debates in the Virginia Convention, the illustrious Patrick Henry, who was opposed to the adoption of the federal constitution, thus expressed himself, in reply to some gentleman who had preceded him: "The honorable gentleman did our judiciary honor, in saying that they had firmness to counteract the legislature in some cases. Yes, sir, our Judges opposed the acts of the legislature. We have this landmark to guide us. They had fortitude to declare that they were the judiciary, and would oppose unconstitutional acts. Are you sure that your Federal judiciary will act thus? Is the judiciary so well constructed, and so independent of the other branches, as our State judiciary? Where are your landmarks in this government? I will be bold to say you cannot find any in it. I take it as the highest encomium upon this country, that the acts of the legislature, if unconstitutional, are liable to be opposed by the judiciary."

Such were the opinions and sentiments of the greatest and wisest men—men who thought and wrote, fought and bled for the liberty of their country, and endeavored to make that liberty perpetual, by instructing their countrymen in those great political principles that are necessary for its preservation.

If we would continue free, if we would that our children should be free, and that we should not shame our revolutionary fathers, we must remember the principles which they taught us; we must treasure up in our minds the lessons of political wisdom and experience, and we must practise them. Our Washington, our Jefferson, our Madison, and the other illustrious men whose names we have been referred to, have instructed us, that the powers of government are legislative, executive and judicial; that the union of these powers in the same hands, whether of one, or few, or many, and whether *hereditary* or *elective*, is *despotism*; that "there can be no liberty where the legislative and executive powers are united in the same person or body of magistrates," or "*if the power of judging be not separated from the legislative and executive powers*;" that it is therefore necessary to liberty, to divide the government into three departments, the legislative, executive and judicial, and to distribute its powers among them in such manner that each may be "the guardian of the public weal against invasion by the others;" and that, in reference to each other, neither of them should possess, *directly* or *indirectly*, an overruling influence;" that the independence of the judicial department is peculiarly essential in a limited constitution; that it is the weakest, and requires most protection; that the legislative is the strongest and most enterprizing department, and that against whose power and ambition

the people ought "to indulge all their jealousy, and exhaust all their precautions." These truths were the great foundations upon which American liberty was based, and upon which the constitution of the United States and the constitutions of almost all the States of the Union, were constructed. They were the republican and prevailing doctrines of America, at the time that the present constitution of Kentucky was formed. No one can examine our constitution, without perceiving how perfectly it accords with those doctrines; nor is any one, unacquainted with those doctrines, qualified to judge of, or understand so completely, the provisions of that instrument. If our constitution was formed upon, and according to those principles, they will afford great aid, and ought to have great effect in all our interpretations and constructions of it. That it was so formed, no one who will look into it can deny. In its very first article, it declares "the powers of the government of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another." Having thus divided the powers of government, the constitution proceeds to vest them in separate bodies of magistracy. In the first section of the second article it provides, that "the legislative power of this Commonwealth *shall be vested* in two distinct branches, the one to be styled the House of Representatives, the other the Senate, and both together the General Assembly of the Commonwealth of Kentucky." In the first section of the third article, it provides that "the supreme executive power of the Commonwealth *shall be vested* in a chief magistrate, who shall be styled the Governor of the Commonwealth of Kentucky." In the first section of the fourth article, it provides that "the judicial powers of this Commonwealth, both as to matters of law and equity, *shall be vested* in one supreme court, which shall be styled the Court of Appeals, and in such inferior courts as the General Assembly may, from time to time, erect and establish." The second section of the same article fixes the jurisdiction of the Court of Appeals; and the third section provides, that "the Judges, both of the supreme and inferior courts, shall hold their offices during good behaviour; but for any reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall remove any of them, on the address of two thirds of each house of the General Assembly: *Provided, however*, that the cause or causes for which such removal shall be required, shall be stated at length in such address, and on the Journals of each house. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law."

There is another part of the constitution, that we have heard referred to in discussions on this subject, and which we will there-

fore quote. It is the 12th section of the 6th article, and is in these words: "The Attorney General, and other Attorneys for this Commonwealth, who receive a fixed annual salary from the public treasury, Judges and Clerks of courts, Justices of the Peace, &c. shall hold their respective offices during good behaviour and the continuance of their respective courts, under the exceptions contained in this constitution."

It is believed to be clear, that so far as this section relates to Judges, and makes the continuance of their offices depend upon the continuance of "their respective courts," it can only have reference and apply to those courts which the legislature has power to discontinue or abolish. The advocates of legislative supremacy ought first to show the power to abolish or discontinue; and when that is done, we would admit, that the discontinuance of the court would be a discontinuance of the offices of the Judges. The only question for discussion here, is whether the legislature has the power of discontinuing or abolishing the Court of Appeals, and thereby displacing its Judges, as they have attempted to do by the re-organizing act. Your committee is thoroughly convinced that the legislature has no such power. Whether they construe the constitution according to the rules of the strictest grammar, or by its whole frame and context, and by the great principles of political liberty that pervade and animate it, their conclusion is the same. "Inferior courts" may, from time to time, be erected and established by the legislature, and abolished at its pleasure; but "the Court of Appeals" is the "creature" of the constitution. It is fixed and established by the people, and is as permanent as the constitution itself. Its Judges are, by the express language of the constitution, to hold their offices "during good behaviour," and the only modes prescribed for their removal, are by impeachment or address. Your committee will enter into no grammatical analysis of the phrases and words of the constitution. Such minute and scholastic criticism would be unworthy of the subject.

The constitution was made to preserve our rights and liberties, and its formation was regulated by those political principles which we have before referred to, and which are illustrated by the most venerated names of our country. It ought to be understood and construed according to the principles that gave it birth. These principles, as we have seen, enjoin a separation of the powers of government, as essential to liberty. Our constitution has accordingly divided those powers, and distributed them to three departments, the legislative, executive and judicial. Those principles teach us, that the very purpose and object of this division of powers, is, that each being independent of the others, may check their encroachments, and the people enjoy a triple security under the guardianship of the three departments. Did not our constitution, for that purpose and object, create three departments?

Was not that at least one of the purposes and objects of their creation? We presume that all must answer in the affirmative. They must, if there be any truth in the doctrines of Washington, Jefferson, Madison and Nicholas.

We would humbly ask of his Excellency, if his opinion be correct, and the legislature can at their pleasure abolish the Court of Appeals, how far he thinks the public can safely rely on that court to restrain or check any encroachments on the rights and liberties of the freemen of this country, which he or the legislature might choose to make? We would ask, also, why the *people* should have so carefully established three departments of government, and yet left it to the Governor and Legislature to abolish one of them? For it is most certain, that if they have a right to abolish the supreme court, they have a right to abolish the whole judicial department; and we should then have a government consisting of two, instead of three departments. Let us go only one step farther in this progress of revolution, and suppose that the Governor and Legislature, after having by their combined strength abolished the judicial department, should fall out with each other, and that the Governor should succeed in *abolishing* the Legislature. All questions about constitutional governments or constitutional rights would then be ended, and we should either have to *abolish* his Excellency, or to hail him as the founder of a new dynasty. This, perhaps, might be considered as the appropriate reward of the doctrines inculcated by his Excellency, as it would certainly be the natural consequence of them; for it is most true, he has just as much constitutional right to abolish the Legislature, as he and the Legislature have to abolish the Judiciary. The moment the opinion advanced by his Excellency shall be established, the Judges of the Court of Appeals, instead of being what they ought to be, the servants of the people, and the high and dignified ministers and guardians of the constitution, sink down at once into mere dependants and officials of the Legislature. Would they be likely to check that body, upon whom they depend for their very existence, and whose momentary displeasure or caprice might hurl them from their station? Is it even probable, that in such a situation of dependance, they could do equal and impartial justice between humble men and influential partizans? Men may be found, of integrity too stern to yield to any circumstances; but this is no common thing, and men are generally found to be what circumstances and situation make them. He who continues long in a situation of dependance, is very apt to contract the habits and feelings of a dependant.

To enable the judiciary, and more particularly the head of that department, to discharge its high functions and to check the other branches of the government in their encroachments, it is necessary it should be independent of them, and the constitution

intended so to make it. The advocates of legislative power have labored to render odious, the notion of judicial independence, by representing it as judicial irresponsibility. According to their argument, there is no responsibility, unless the Judges be completely subjected to the power and pleasure of the Legislature. The constitution did not intend to make them the slaves of the Legislature. It intended to make them independent of that department, but at the same time to make them responsible. Impeachment and address are the modes prescribed by the constitution to enforce their responsibility; and their tenure of office during good behaviour, and the requisition of two thirds for their removal by impeachment or address, were intended to give them a feeling of independence—to raise them above the fear of being made victims of caprice, ambition or faction, and to dispel all notions but those which urged to intellectual improvement, purity, and honorable bearing.

It requires but little reflection to convince any one, that the judicial is the weakest of all the departments of the government. It has no means of creating factions; it has no means of rewarding partizans; it holds neither the public purse nor the public sword; it is withdrawn by the nature of its functions, from political contentions; it has much to lose by them and nothing to gain; there is nothing in its situation to inspire any dangerous spirit of enterprize or ambition; it has nothing but the faculty of judgment; it may err; but there is no instance of any people being enslaved by courts, unless it be, where they have acted in subserviency to the more active and enterprising departments of government. Comparatively powerless, it is an unarmed sentinel placed in the constitution to warn off all intruders, and to give notice of all invasions. The other departments are more powerful and more intrepid. Their numbers, their patronage and their active participation in political concerns and controversies, give them influence, kindle their passions, and inspire them with ambition. Acting under these excitements; or more sensitive motives, they may invade private rights or public liberty. The framers of our constitution, venerated patriots! to guard against such dangers and to secure the liberty of their posterity by all the wisest precautions, established the judicial department of the government, to check the invasions and encroachments of its other functionaries. The provisions of our constitution and the theory of our government, we had supposed could not be misunderstood upon this subject. Each of its three departments was intended as a bulwark to our constitution, and the security of our rights consists in the inability of either, or any of those departments, to make any serious encroachments without the concurrence of all; and yet we are gravely called upon to demolish one of those bulwarks, or to recognize, in effect, the power of the Legislature to do so. We cannot give our

sanction to such a doctrine. We believe that the Court of Appeals is as much a part of the constitution, as the office of Chief Magistrate; we believe that the people have established it; that they can change it when they think proper to alter their constitution; and that no power but theirs, can do it. The attempt which was made at the last session of the Legislature to abolish that court, was made, as we understand, under no better pretext, than that the Judges had erred in their decision upon the constitutionality of some act of the Legislature. If the Judges were guilty of any error which deserved punishment, they should have been proceeded against personally, by impeachment or address, as prescribed in the constitution. In such a course of procedure, a majority of two thirds would have been necessary for their conviction or removal; and even if the Legislature had possessed the power of abolishing the court, to have exercised that power merely for the purpose of expelling the Judges by a bare majority, would have been a flagrant evasion or perversion of the constitution. Much more so was it, to attempt "to get rid" of the Judges of the Court of Appeals, by asserting and exercising, for an unconstitutional purpose, the arrogated power of abolishing a court created by the constitution. Had the Judges (whose worst enemies charge them with nothing more than error of judgment) been ever so guilty, it could give the Legislature no right to abolish that court, and thereby to introduce a principle and precedent, so dangerous and unconstitutional; a precedent which might hereafter enable the most vicious Legislature to remove the best of Judges, to supply their places with parasites, who would aid in any scheme of usurpation or oppression; a principle and precedent which destroys both the stability and independence of that tribunal, and renders it inadequate to the great purpose of its creation. The Court of Appeals is the great *citadel* of public justice; it was intended to be a "tower of strength" for the defence of the people and the people's rights, and so it will be, as long as it is permitted to retain its constitutional and independent character; but let that be destroyed, let its constitutional officers be compelled to surrender it to the Legislature, it then becomes a tower of strength for them, and may become a "tower" of offence against the people and their rights and liberties.

If your committee could, for a moment, admit the power of the Legislature to abolish the Court of Appeals, they would still insist, that the exertion of that power in the passage of the re-organizing act, was a *gross abuse* of the constitution and a *violation* of its *spirit*, because its object and purpose was no other than merely to displace the Judges. Such was the avowed motive of the Legislature, and such, from the face of the act, was its apparent design. It was not intended to destroy the court altogether; for it is re-established by the very same act that attempted to abolish it.

What a wild mockery of the constitution, and what a strange *trick* of power, would it be in the Legislature, to displace every Judge and justice of the peace in the State, by enacting, by a bare majority, and in one little sentence, that all our courts are "hereby abolished, and the same are hereby re established." What an admirable mode this would be of augmenting the patronage of the Legislature and Governor, of enabling them, from time to time, to recruit their forces, or feed their hungry partisans. By securing the servility of the judiciary, it would also relieve them from the saucy impertinence of Judges, in deciding any of their acts to be unconstitutional. But what would the indignant freemen of this country say to such a course of legi-lation? Why did they, by their constitution, so carefully provide, that both upon impeachment and address, a majority of two thirds should be required to remove a judge from office, if they intended to enable the Legislature to remove them by a bare majority, without any accusation made or cause assigned, but merely by changing the proceeding into the form of an act of assembly? Such absurdities cannot be reasoned against it, and it appears to your committee, that nothing can be clearer, than that such legislation is a flagrant perversion of the constitution.

His Excellency is wholly mistaken in the authorities and precedents to which he refers for the support of his opinion. He says, that "the power of changing, and even re organizing it, (the Court of Appeals,) had been once before exercised by the Legislature." By the constitution, the Legislature has power to regulate the jurisdiction of that court, to fix the number of its Judges and the amount of their salaries, and in the exercise of these powers, laws have been made and changed; but your committee know of no instance in which the Legislature ever before assumed the power of abolishing that court, or legislating the Judges, or any one of them, out of office. It has never attempted to reduce the number of Judges, except by preventing new appointments to offices vacant by death or resignation. No Judge has ever been legislated out of his seat, and we know of no act analogous in its object or principle, to the reorganizing act of the last session. We confidently believe, that the legal advisers of his Excellency, can point to no such act. It stands alone, without a parallel, and long may it remain so. If the act of 1796, be the act alluded to, and supposed to be similar to the act of the last session, we can inform his Excellency, that he is entirely mistaken. That act was not intended to remove the Judges then in office, or to affect them, nor did it. No new commissions were issued to them, nor any new oath of office taken; nor was it then deemed necessary. The modern invention of legislating Judges out of office, was not then known or thought of. All these facts are susceptible of the strictest and most satisfactory proof, and will convince his Excellency,

that the instance furnished by the act of 1796, not only does not support his opinion, but is an authority against him.

The next authority referred to by the Governor, is a decision of the Supreme Court of the United States. The case referred to we suppose to be that of *Durosseau vs. United States*, to be found in 6 Cranch 307. That decision, when properly understood, affords no support to the Governor's opinion. It is by verbal criticisms and captious arguments only, that it is attempted to be drawn into his service. Such criticisms and arguments are unworthy of the subject, and require no further notice.

But his Excellency further informs us, that "the power of re-organizing courts, and thus expelling their incumbents from office, had repeatedly been exercised by our own Legislature and by Congress," and that "the ablest statesmen in the latter body, had declared that the Supreme Court was as much the creature of the legislative power, as the inferior courts."

To this your committee would reply, that the power of re-organizing courts, and thus expelling their incumbents from office, has never been exercised either by our own Legislature or by Congress, except in relation to "inferior courts," which, by the provisions of both our Federal and State constitutions, are placed at the discretion of the legislative department. The Federal constitution corresponds precisely with our own in relation to the judiciary. Each establishes "one Supreme Court," and vests the judicial power in that court "and in such inferior courts" as Congress or the Legislature respectively "may, from time to time, erect and establish." From both constitutions, it is clear to your committee, that Congress and the Legislature have complete control over their inferior courts; that they may erect, destroy and re-organize them according to their discretion, and from time to time. But the exercise of such a power in relation to these courts, furnishes neither argument nor authority in favor of the opinion that such power may be exercised over the Supreme Court, which, in both governments, we consider as established by the constitution. His Excellency is again mistaken, in supposing that the ablest statesmen in Congress had declared, that the Supreme Court was as much the creature of the legislative power, as the inferior courts. We suppose that his Excellency alludes to the declarations made in that body in the debates on the judiciary bill, which took place in the year 1802. The only constitutional question involved in that debate, respected the power of Congress to abolish "inferior courts," which had been established in the preceding administration of President Adams. The members of Congress of the federal party, denied the constitutional power of abolishing even the inferior courts, and endeavored, by their arguments, to place those courts upon the same grounds of constitutional security with the Supreme Court. The republican party

insisted upon the distinction, for which we now contend, between the supreme and inferior courts, and asserted the power of abolishing the latter, but admitted that the former was established by the constitution, and was beyond the reach of the legislative power. There were, no doubt, gentlemen of abilities, belonging to both parties, who entertained peculiar opinions; but we are satisfied that we have stated correctly the general doctrines contended for, and that almost the entire Congress of that day, acknowledged the principle, that the Supreme Court was created by the constitution, and, of course, could not be abolished by the Legislature. We will not here multiply quotations from those debates; but we must beg the patience of the house, while we repeat the sentiments and language expressed by some of the most distinguished republican members. General Jackson, senator from Georgia, (after reading the 1st section of the 3d article of the constitution,) says: "Here then are two tribunals, first, the Supreme Court, the *creature* of the constitution, the creature of the *people*; the other, the inferior jurisdictions, the creature of the Legislature."

General Mason, of Virginia, says: "When I view the provisions of the constitution on this subject, I observe a clear distinction between the Supreme Court and other courts. With regard to the institution of the Supreme Court, the words are imperative; while, with regard to inferior tribunals, they are discretionary. The first *shall*, the last *may* be established; and surely we are to infer from the wise sages that formed the constitution, that nothing was introduced into it in vain. Not only sentences, but words, and even points, elucidate its meaning. When, therefore, the constitution, using this language, says a Supreme Court *shall* be established, are we not justified in considering it as of constitutional creation? And on the other hand, from the language applied to inferior courts, are we not equally justified in considering their establishment as dependant upon the Legislature, who *may*, from time to time, ordain them, as the public good requires? Why this difference, but that the Supreme Court was considered, by the framers of the constitution, as established by the constitution, while they considered the inferior courts as dependant upon the will of the Legislature?"

Mr. John Randolph, a representative from Virginia, thus expresses himself: "I agree that the constitution is a limited grant of power, and that none of its general phrases are to be construed into an extension of that grant. I am free to declare, that if the intent of this bill is to *get rid* of the Judges, it is a *perversion of your power to a base purpose; it is an unconstitutional act.*"

The celebrated Mr. Pendleton, long the Chief Justice of the State of Virginia, and one of its greatest ornaments, in his written opinion on the same subject, contends that Congress had pow-

er to abolish the inferior courts, but admits that "the Supreme Court is the *creature of the constitution.*"

Your committee are very sensible of their own fallibility, and they have therefore thought it necessary to recur to more venerable sources of authority, to fix the true meaning of their constitution. They have been the more especially prompted to this course, as they have learned from a recent communication of his Excellency, that he regards the members of your honorable house as "ephemeral politicians," scarcely "shadows;" and your committee could, therefore, expect but little respect for its opinions, unless supported by much higher authorities. Your committee could easily multiply those authorities; but they will no longer detain the house with further citations. Those that have been already made, are more than adequate to the occasion, and must at least convince his Excellency that there are very great names, and very high authorities against the opinion which he entertains.

We would not wish to give pain, or to create any feeling of humiliation in his Excellency, by making personal comparisons, nor shall we do so; but we must take the liberty of contrasting names and opinions upon this subject.

Governor Desha is of opinion that the supreme court was not established by the constitution; that it was *created* by the legislature, and that the legislature can abolish it at their pleasure, and even for the mere purpose of *getting rid* of the Judges and their decision. General Jackson, General Mason, and Chief Justice Pendleton, were of opinion that the "supreme court" was "the creature of the constitution, the creature of the people;" and, of course, that the legislature could not abolish it. And Mr. Randolph was further of opinion, that even where the legislature had power to abolish courts, to exercise that power for the purpose of "getting rid of the Judges," was a "perversion" of that power to a "base purpose."

Governor Desha thinks that the court of appeals, and of course the whole judicial department, was created by the legislature—is wholly dependant upon, and may at any time be abolished by it; and this construction of the constitution he supposes not to be dangerous to liberty, but to accord with the acknowledged principles of most of the American governments.

Colonel Nicholas and General Hamilton were of opinion that "the complete independence of courts of justice" was "peculiarly essential in a limited constitution;" and that without this, "all the reservations of particular rights or privileges would amount to nothing."

Mr. Madison, our late President, says, that neither of the three departments ought to have an "overruling influence," in reference to any other of them; and that such a mixture of powers as

would create even a "dangerous tendency" to the subversion of one of the departments of government, or the accumulation of power in any other, would be sufficient "to inspire an universal reprobation of the system." The Governor contends, that the legislature has the power to create or to destroy the court of appeals; and surely the power to create and to destroy, is a power to influence and overrule. His doctrines, then, are here distinctly *reprobated*, by one of the purest patriots and wisest men that ever lived.

Mr. Jefferson, the great light of liberty and republicanism, complains of the ordinance of government, or constitution of Virginia, because the "*judiciary* and *executive* members were left *dependant* on the *legislative*, for their *subsistence* in office, and some of them, for their *continuance* in it; and that thereby all the powers of government resulted to the legislative body, and created a *despotism*.

If any thing more be necessary to the utter condemnation of his Excellency's doctrines, let them be contrasted with the opinions and admonitions of our venerated and immortal Washington, who tells us of the necessity of checks in the exercise of political power, and warns us against that spirit of encroachment which would consolidate all the departments into one, and thus create, "whatever the form of government, a real despotism."

Your committee will discuss the subject no further. The principles for which they contend, are the principles of American liberty—the principles of the revolution, illustrated by the writings, and consecrated by the blood of our ancestors. They are attested by the dead and the living; by Washington, Jefferson, Madison, Henry, Hamilton and Nicholas, names connected with the proudest recollections, and the most patriotic affections of every American.

We solemnly believe, that the opinions entertained by the Governor, and his construction of our constitution, are hostile to those principles, and to the security of our rights. We believe that his opinion and construction ascribe to the legislature a power and supremacy which the people never intended to grant; a power which may lead to *despotism*, by enabling them to destroy a part of the people's constitution, the head of the judicial department, or at least to destroy its independence, and thereby emancipate itself from all constitutional check or limitation upon its authority. We feel it to be our duty, therefore, and the duty of the representatives of the people, in the name of their constituents, to protest against the doctrines advanced in the message, as contrary to the constitution, contrary to the maxims and principles of republican government, and dangerous to liberty.

As to the compromise proposed in the message, your committee will only say, that it requires us, in effect, to admit the constitutionality of the re-organizing act, and the power of the Legislature

to abolish the Court of Appeals, and that it ought not, therefore, to be acceded to. It is opposed by all the reasons and considerations which have been, or can be urged against the constitutionality of the act itself; and if we are right in supposing that the Legislature has no power to abolish the Court of Appeals, we cannot be wrong in rejecting such a compromise, if, indeed, a *compromise* it can be called, which requires us to surrender our principles and abandon our sense of constitutional duty. We know that peace is greatly to be desired; but we cannot consent to purchase it by a *dishonorable* abandonment of our opinions, and much less by a *treacherous* surrender of the *people's* constitution.

It would be improper to mingle with this constitutional question, any discussion about the personal merit or demerit of the individual Judges. Whether the Legislature has, or has not the right to abolish that court, depends not upon any such consideration, but solely upon the constitution; and it is with regret, therefore, that we discover in the message an attempt to influence the public judgment, and excite prejudice against the Judges, by invidious allusions. Your committee will only say, that the insinuations, faintly and ambiguously made against them, of infidelity—of being ever ready to open the gate at the summons of an enemy to the people's rights, or of rendering decisions under the influence of the Bank of the United States, are unsupported by any facts known or communicated to them. They believe that such insinuations are aspersions upon their characters, made, no doubt, unintentionally, and from some miapprehension. Those Judges have borne themselves "so clear in their high office," that they require not our vindication. The integrity and firmness with which they have resisted usurpation, and defended the constitution, under the severest trials, will remain a proud and lasting monument of their public worth and virtue, when all the aspersions and calumnies with which they have been assailed, shall be forgotten.

Your committee beg leave to submit the following resolutions:

Resolved by the House of Representatives, That the separation of the powers of government into three distinct departments, as established by our constitution, is essential to the preservation of our rights and liberties.

Resolved, That the three departments of our government were designed to operate as reciprocal checks upon each other.

Resolved, That the power asserted by the last Legislature, of abolishing or re-organizing the Court of Appeals, as then attempted, is entirely subversive of the independence of the judicial department, and destroys one of these checks, provided by the constitution to prevent the encroachments of government, and to secure the rights of the citizen.

Resolved, That the exercise of such power by the Legislature, is unconstitutional, and tends towards despotism.

The first resolution having been adopted, the question was then put upon the adoption of the second, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Crittenden and Green, were as follows, viz.

YEAS—Mr. Speaker, Messrs Bainbridge, Barbee, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Carter, Coleman, Coombs, Cosby, Cowan, Cox, Crittenden, Daniel, Davis, Duke, Dunlap, Elliston, Farmer, Ford, Gibson, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, Haskin, Hutchison, James, Lee, Logan, Marshall, Mayes, M'Clanahan, M'Cormas, M'Connell, M'Millan, Owsley, Payne, Reed, Sanders, Skyles, Spalding, Street, Tarlton, Robert Taylor, Timberlake, Turner, Waddell, Wade, Walker, Ward, B. E. Watkins, E. Watkins, Wilson, Wingate, A. White, S. White, Woodson and Yantis—63.

NAYS—Messrs. Perrin and Samuel—2.

The question was then taken on the adoption of the third resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Tarlton and Breckinridge, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Davis, Duke, Dunlap, Farmer, Ford, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Morris, Owsley, Payne, Reed, Skyles, Street, Robert Taylor, Timberlake, Turner, Waddell, Walker, E. E. Watkins, Wilson, A. White, Woodson and Yantis—44

NAYS—Messrs. Barbee, Carter, Chenowith, Coleman, Coombs, Daniel, Elliston, Fulton, Hall, Haskin, Lee, Martin, M'Clanahan, M'Cormas, M'Millan, Nuttall, Perrin, Samuel, Sanders, Spalding, Tarlton, Wade, Ward, E. Watkins, Wingate and S. White—26.

The question was then taken on the adoption of the fourth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Crittenden and Cosby, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Davis, Duke, Dunlap, Farmer, Ford, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Marshall, Mayes, M'Connell, Owings, Owsley, Reed, Skyles, Street, Robert Taylor, Timberlake, Thomasson, Turner, Waddell, Walker, B. E. Watkins, Wilson, A. White, Woodson and Yantis—46.

NAYS—Messrs. Barbee, Carter, Chenowith, Coleman, Coombs, Daniel, Elliston, Fletcher, Fulton, Hall, Haskin, Lee, Martin, M'Clanahan, M'Cormas, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Samuel, Sanders, Spalding, Tarlton, Wade, Ward, E. Watkins, Wingate and S. White—27.

Ordered, That the public printers forthwith print 150 copies of said report, for the use of the members of this house.

The house took up for consideration, the report of the committee of ways and means, made to this house on the 5th inst.

The first and second resolutions reported by said committee having been adopted on a former day of the session, the third resolution was then amended to read as follows:

Resolved further, That the said Thomas B. Monroe ought not to be paid out of the public treasury for any future report of the decisions of the said Barry, Haggin, Trimble and Davidge, or their successors; and that the said Monroe ought to refund the sum of

$84, which has been overpaid him for the volume of their Reports already printed.

The question was then taken on adopting the third resolution as amended, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Sanders and Hardin, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Bainbridge, Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Harvey, Hutchison, James, Logan, Mayes, M'Connell, Owings, Owsley, Reed, Skyles, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, Wilson, A. White, Woodson and Yantis—48.

NAYS—Messrs. Barbee, Carter, Chenowith, Coleman, Coombs, Daniel, Ellis-ton, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Thomas, Wade, Ward, E. Watkins, Wingate and S. White—34.

The question was then taken on adopting the fourth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by Messrs. Tarlton and Sanders, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Blackburn, Breck, Breckinridge, Brown, Bruce, Bruton, Cosby, Cowan, Cox, Crittenden, Cunningham, Davis, Duke, Dunlap, Evans, Farmer, Ford, Gaines, Gibson, Green, Grundy, Hansford, Hanson, Hardin, Hutchison, James, Logan, Mayes, M'Connell, Owings, Owsley, Payne, Reed, Skyles, Street, Robert Taylor, Z. Taylor, Timberlake, Thomasson, Turner, Underwood, Waddell, Walker, Wilson, A. White, Woodson and Yantis—48.

NAYS—Messrs. Barbee, Carter, Chenowith, Coleman, Coombs, Daniel, Ellis-ton, Fletcher, Fulton, Hall, Haskin, Lackey, Lee, Martin, Maupin, M'Clanahan, M'Cormas, Miller, M'Millan, Napier, Nuttall, Perrin, Porter, Prince, Samuel, Sanders, Spalding, Tarlton, Wade, Ward, E. Watkins, Wingate and S. White—33.

Leave was given to bring in the following bills:

On the motion of Mr. James—1. A bill to amend the law in relation to the salary of the Receiver of public money for the land district west of the Tennessee river, and for other purposes.

On the motion of Mr. Hanson—2. A bill to regulate the terms of the Bourbon and Nelson circuit courts.

And on the motion of Mr. Underwood—3. A bill to provide for removing two slaves, now confined in the jail in Morgantown, to Russellville, for safe-keeping.

Messrs. James, Prince and Cox, were appointed a committee to prepare and bring in the first; Messrs. Hanson, Owings and Timberlake, the second; and Messrs. Underwood, Wilson and Porter, the third.

Whereupon bills were reported from the two latter committees, which were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bils having been dispensed with, and the same being engrossed,

Resolved, That the said bills do pass, and that the titles thereof be as foresaid.

Ordered, That Mr. Hanson carry the said bills to the Senate, and request their concurrence.

A bill from the Senate, entitled "an act to change the time of electing representatives to Congress," was read a third time.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

The yeas and nays being required on the passage of said bill, by Messrs. Gaines and Woodson, were as follows:

YEAS—Messrs. Barbee, Blackburn, Breckinridge, Bruce, Bruton, Carter, Coleman, Coombs, Cosby, Cunningham, Daniel, Dunlap, Elliston, Evans, Fletcher, Fulton, Green, Grundy, Hall, Hanson, Hardin, Haskin, Hutchison, Lee, Martin, Maupin, M'Clanahan, M'Cormas, M'Connell, M'Millan, Napier, Owsley, Payne, Perrin, Porter, Skyles, Spalding, Tarlton, Z. Taylor, Thomas, Thomasson, Underwood, Wade, Walker, Ward, Wilson, Wingate, A. White, S. White, Woodson and Yantis—51.

NAYS—Mr. Speaker, Messrs. Breck, Cowan, Davis, Duke, Dyer, Ford, Gaines, James, Lackey, Logan, Miller, Owings, Reed, Sanders, Robert Taylor, Turner, Waddell and E. Watkins—19.

Ordered, That Mr. Woodson inform the Senate thereof.

Mr. Harvey read and laid on the table the following resolutions:

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That they do most solemnly protest against that act of the Congress of the United States, which is assumed by the federal court of the district of Kentucky, as an authority for the creation of certain Rules of court, which ordain execution laws and adopt different court process from any known to the country; and that they do view the said Rules of court, as a violation of the true spirit of the federal constitution, and as an infringement on the rights and privileges of the freemen of this State.

Be it further resolved, That our solemn reverence for the Union, and our firm reliance on the exalted virtue and patriotism of the functionaries of the general government, prompt us to expect a speedy repeal of the aforesaid act of Congress, as the only means of redressing the grievances of the country, arising from the adoption of the Rules of the federal court.

And thereupon the rule of the house having been dispensed with, the said resolutions were taken up, twice read and adopted.

Ordered, That Mr. Harvey carry the said resolutions to the Senate, and request their concurrence.

The following bills were severally read a second time: 1. A bill for the benefit of William Steele; and 2. a bill to change the venue in the case of Jereboam O. Beauchamp.

Said bills were thereupon ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the former bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Blackburn carry the said bill to the Senate, and request their concurrence.

Mr. Crittenden, from the joint committee of conference, made the following report:

The committee of conference on the part of the House of Representatives, to confer with a committee on the part of the Senate, in relation to the Court of Appeals, have met and conferred with said committee, and beg leave respectfully to report: That they received, on the part of the committee of the Senate, sundry propositions for an adjustment of the existing controversy in relation to the Court of Appeals, which propositions will appear in detail, by reference to a document accompanying this report, marked A. For the reasons assigned in the accompanying document marked B. the committee on the part of the House of Representatives rejected the propositions of the committee of the Senate, and submitted the propositions set forth in the last mentioned document. The committee on the part of the Senate rejected the propositions submitted by the committee of the House of Representatives, and no other propositions being submitted, the committee rose without being able to agree on any proposition.

Your committee conceive that the great body of the people have settled this controversy, and settled it correctly. According to their duty to themselves, to their constituents, and to posterity, they could not agree to any proposition which in the slightest degree recognized in the Legislature the power to re-organize the Court of Appeals.—They submit the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject to them committed.

(A.)

The committee on the part of the Senate, raised to confer with the committee on the part of the House of Representatives, in relation to the Court of Appeals, offer the following propositions:

1st. The appellate court to be constituted on equal and reciprocal terms.

2d. All the individuals claiming to be Judges of the Court of Appeals, to yield their pretensions, and a new court, to consist of four Judges, (without regard to party,) to be formed as may be agreed on.

3d. Or two of the late Judges and two of the present Judges.

4th. Or, if the committee of the House of Representatives prefer it, six Judges to be appointed, the old Judges to be three of them, to receive new commissions, with a salary of $1,000 per annum.

The committee of the House of Representatives may have choice of the above propositions; and in case of the acceptance of either, the re-organizing act of last session, and the act regulating the salaries of the Judges of the Court of Appeals, to be repealed; and in case of the acceptance of the fourth proposition, it will be provided by law, that when the number of Judges shall be reduced, by death, resignation or removal, to three, the salary shall be $1,500, and the act of December 19th, 1796, to be re-enacted, and all other laws in relation to the Court of Appeals, in force prior to the 24th December 1824, to be revived.

The foregoing propositions are made with a view of pointing out the several practicable means of restoring tranquility to the country; and for the purpose of making known to the committee on the part of the House of Representatives, the choice of the propositions that the committee of the Senate would themselves prefer, they submit a bill.

(B.)

The committee appointed on the part of the House of Representatives, to confer with a like committee on the part of the Senate, in relation to the Court of Appeals, have had the propositions of the committee of the Senate under consideration, and in answer thereto report:

That the committee cannot accept of the proposition for six Judges, because the number is too great, and a court thus organized would be unfit for business. In addition to that, the situation of the treasury forbids such a measure, and public sentiment would not sanction it.

The proposition for four Judges is equally inadmissible—First, because it compels the House of Representatives to recognize the power in the Legislature to re organize the Judges of the Court of Appeals out of office, when they have solemnly voted that such a power did not belong to the Legislature, but to the people. This objection likewise applies to the proposition for six Judges. Secondly, it compels them to turn men out of office, who, in their opinion, do not deserve it, when the constitution says the cause of removal shall be *reasonable*. Thirdly, it is putting the majority of the House of Representatives in the power of the Governor, who, in this particular controversy, does not stand in the attitude of an impartial umpire between the contending parties, but as an avowed partizan on the new court side of the question.

The committee for the House of Representatives would here remark, that in the event of the resignation of the Judges whom the committee on the part of the Senate are pleased to denominate *late Judges*, they would not insist on their re-appointment. They protest against every proposition predicated upon the idea that they are engaged in a struggle for men. To settle the limit

of legislative power, constitutes the great object of the House of Representatives.

The committee submit the following propositions on the part of the House of Representatives:

1st. To add a fourth Judge to the Court of Appeals, the salary to be reduced to twelve hundred dollars each, annually, to be paid in Commonwealth's paper; that no law shall be declared unconstitutional, unless the court is unanimous; that the act which passed last session, re-organizing the Court of Appeals, and the act fixing the salary, shall be repealed.

If this proposition is not accepted on the part of the committee of the Senate, then the committee on the part of the House of Representatives offer this second proposition: That the Governor, Lieutenant Governor, Judges of both Courts, Senators and Representatives, shall all resign, and submit the whole question again to the people, to which tribunal a reference of all great fundamental principles of government ought to be made.

Which was read, and the resolution recommended by said committee concurred in.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate recede from their amendment proposed to a bill from this house, entitled "an act for the appropriation of money;" they concur in the amendment proposed by this house, to a bill from the Senate, entitled "an act to authorise the clerks of the M'Cracken circuit and county courts to transcribe certain records;" and they have passed bills which originated in this house, of the following titles: An act to provide for running the line between the counties of Shelby and Spencer; an act to declare Red river a navigable stream; an act to regulate the terms of the Bourbon circuit court, and for other purposes; an act to exempt the citizens of Clay and part of Laurel counties from paying toll at the turnpike gate on the Salt-works road; an act to provide for the current expences of the present year; an act to amend an act entitled "an act for the benefit of Jonathan Taylor," approved 12th January 1825; an act for the benefit of William Steele; an act for the benefit of the Judge of the 10th judicial district; an act to amend the several acts respecting the turnpike road from the mouth of Triplett's creek to Big Sandy; an act for the benefit of William Davis and others; an act to amend the several laws regulating the towns of Harrodsburg and Richmond—with amendments to the latter bill; and they have passed a bill entitled "an act providing for rebuilding the Capitol;" in which amendments and bill they request the concurrence of this house.

And then he withdrew.

The amendments proposed by the Senate, to a bill from this house, entitled "an act to amend the several acts regulating the

towns of Harrodsburg and Richmond," were twice read and concurred in.

Ordered, That Mr. Wade inform the Senate thereof.

An engrossed bill entitled "an act to authorise purchasers of tobacco to export the same without inspection," was read a third time.

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

Ordered, That Mr. Nuttall carry the said bill to the Senate, and request their concurrence.

A bill from the Senate, entitled "an act to provide for rebuilding the Capitol," was read the first time and laid on the table.

The yeas and nays being required on laying the said bill on the table, by Messrs. Green and Crittenden, were as follows, viz.

YEAS—Messrs. Bainbridge, Barbee, Breck, Bruton, Chenowith, Coombs, Cosby, Cowan, Cox, Dyer, Evans, Farmer, Green, Grundy, Hall, Hansford, Hanson, Hardin, Harvey, James, Martin, Mayes, Miller, M'Millan, Napier Owsley, Porter, Skyles, Slaughter, Spalding, Z. Taylor, Thomas, Thomasson, Turner, Underwood, Wade, Walker, B. E. Watkins, E. Watkins, Wilson, A. White, S. White, Woodson and Yantis—44.

NAYS—Mr. Speaker, Messrs. Blackburn, Brown, Bruce, Carter, Coleman, Crittenden, Cunningham, Daniel, Davis, Duke, Dunlap, Elliston, Ford, Fulton, Gaines, Gibson, Hutchison, Lee, Logan, Marshall, M'Clanahan, Nuttall, Owings, Payne, Reed, Samuel, Sanders, Street, Tarlton, Robert Taylor, Timberlake, Waddell, Ward and Wingate—35.

The following bills from the Senate were severally read the first time and ordered to be read a second time, viz. 1. An act for the benefit of John Bevins; 2. an act for the benefit of Cyrus Talbot; 3. an act to allow an additional justice of the peace to the county of Casey; 4. an act to authorise the Editors of the Western Intelligencer and Columbia Reporter to insert certain advertisements; 5. an act for the benefit of Thomas Branscomb; 6. an act to establish the town of Mount Carmel, in Fleming county, and for other purposes; 7. an act for the benefit of Daniel Rowlett, surveyor of Caldwell county; 8. an act authorising the trustees of Elizabethtown to make conveyances in certain cases; 9. an act for the benefit of Charles Helm; and 10. an act for the benefit of Jesse Wooldridge and others.

And thereupon the rule of the house, constitutional provision, and second and third readings of said bills (with the exception of the 10th bill) having been dispensed with, and the 3d and 4th having been amended,

Resolved, That the said bills do pass.

Ordered, That the Clerk inform the Senate thereof, and request their concurrence in the amendments proposed to the 3d and 4th bills.

A bill to legalize the acts of the Treasurer, in accepting and paying the orders of the Governor, one for $5,000, the other for $3,086, drawn by him to entertain General Lafayette while in this

State, and for other purposes, was read a second time, amended and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

Resolved, That the said bill do pass, and that the title thereof be as aforesaid.

The yeas and nays being required thereon by Messrs. Green and Sanders, were as follows, viz.

YEAS—Mr. Speaker, Messrs. Barbee, Blackburn, Brown, Carter, Chenowith, Coombs, Cosby, Cunningham, Duke, Dunlap, Dyer, Fletcher, Ford, Fulton, Gaines, Gibson, Hall, Hardin, Hutchison, James, Lackey, Lee, Logan, Martin, Mannin, Mayes, M'Clanahan, M'Millan, Nuttall, Owings, Perrin, Porter, Reed, Samuel, Sanders, Spalding, Street, Robert Taylor, Timberlake, Thomas, Thomasson, Underwood, Waddell, Wade, Walker, E. Watkins, Wilson, A. White, S. White, Woodson and Yantis—52.

NAYS—Messrs. Bainbridge, Cowan, Elliston, Green, Harvey, Skyles, Slaughter, Z. Taylor and B. E. Watkins—9.

Ordered, That Mr. Sanders carry the said bill to the Senate, and request their concurrence.

A message from the Senate, by Mr. Wickliffe:

Mr. Speaker—The Senate concur in the amendments proposed by this house, to bills from the Senate, of the following titles: An act to allow an additional justice of the peace to the county of Casey, and an act to authorise the Editors of the Western Intelligencer and Columbia Reporter to insert certain advertisements. They disagree to a bill which originated in this house, entitled "an act to amend the several acts for encouraging the manufacture of salt in this Commonwealth." They have passed bills which originated in this house, of the following titles: An act for the benefit of Robert Davis; an act to prohibit the appropriation of a part of the vacant land of this Commonwealth; an act making provision for the keepers of lunatics in certain cases; an act to encourage the establishment of private schools; an act making an allowance to Colonel William Steele; an act making an additional appropriation to defray the expences of Lafayette's visit; an act to authorise purchasers of tobacco to export the same without inspection; an act for the benefit of Peter Carr; an act to authorise Samuel Shannon to sell a slave owned by his ward, Mary Shannon; an act to provide for removing two slaves now confined in the jail at Morgantown, to Russellville, for safe-keeping. They disagree to the amendments proposed by this house, to a bill from the Senate, entitled "an act to reduce the salaries of the Judges of the Court of Appeals, and to repeal so much of an act re-organizing the court passed 24th December 1824, as creates the office of a fourth Judge of said court;" and they have adopted a resolution relative to the Capitol grounds and public property; in which resolution they request the concurrence of this house.

And then he withdrew.

The said resolution was then taken up, twice read and concurred in.

Ordered, That the Clerk inform the Senate thereof.

Mr. Underwood, from the majority on the vote by which the third resolution (as amended) of the committee of ways and means, reported to the house on the 5th instant, was adopted, moved for a reconsideration of said vote; and the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by Messrs. Underwood and Maupin, were as follows, viz.

YEAS—Messrs. Carter, Coombs, Crittenden, Dyer, Fletcher, Hall, Lackey, Maupin, M'Millan, Perrin, Porter, Samuel, Sanders, Skyles, Thomas, Thomasson, Underwood, Wade, Walker and E. Watkins—20.

NAYS—Mr. Speaker, Messrs. Bainbridge, Barbee, Blackburn, Breckinridge, Brown, Bruce, Chenowith, Cosby, Cowan, Cox, Cunningham, Davis, Dunlap, Elliston, Ford, Fulton, Gibson, Green, Hansford, Hardin, Hutchison, James, Logan, Martin, M'Clanahan, Owsley, Reed, Slaughter, Spalding, Robert Taylor, Z. Taylor, Waddell, B. E. Watkins, Woodson and Yantis—35.

A message from the Senate, by Mr. Daveiss:

Mr. Speaker—The Senate have passed resolutions which originated in this house, protesting against the act of Congress under which certain Rules of the federal court of Kentucky have been made.

And then he withdrew.

Mr. Prince, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz. An act for the benefit of the Simpson Seminary, and for other purposes; an act to incorporate the Spring Creek Seminary, in Gallatin county; an act to authorise certain county courts to permit gates to be put across public roads; an act to establish election precincts in certain counties, and for other purposes; an act to continue in force an act providing for the appointment of Commonwealth's attorneys; an act to establish the town of Sharpsburg, in the county of Bath, and for other purposes; an act further to regulate the Bank of the Commonwealth; an act for the benefit of Robert Bleaky, deputy sheriff of Meade county; an act for the benefit of certain sheriffs; an act for the appropriation of the surplus funds of militia fines, in the hands of the paymaster of the 59th regiment of Kentucky militia; an act to appoint commissioners to examine and receive the improvements made on the Louisa fork of Sandy river; an act to provide for holding a chancery term in the county of Nicholas; an act to add a part of the county of Barren to the county of Allen; an act to legalize the proceedings of William Hickman and Orson Morrow, of Simpson county; an act for the benefit of Massey Anderson; an act for the benefit of Thomas Hinds and others; an act to provide for the distribution and preservation of the public law books; an act to establish election precincts in certain counties; a resolution directing the burning of part of the paper of the Bank

of the Commonwealth; an act to amend an act authorizing the sale of the vacant land between Walker's line and the latitude 36° 30' north, in the State of Tennessee, and for running and marking the latitudinal line; a resolution relative to the capitol grounds and public property; an act to allow additional justices of the peace to the counties of Casey, Hopkins and Hickman; an act to amend the several laws regulating the towns of Harrodsburg, Richmond and Hopkinsville; an act to provide for the public expences of the current year; an act to declare Red river a navigable stream; an act for the appropriation of money; an act to provide for running the line between the counties of Shelby and Spencer; an act to encourage the establishment of private schools; an act making an allowance to Col. William Steele; an act to exempt the citizens of Clay and part of Laurel counties from paying toll at the turnpike gate on the Salt-works road; an act to regulate the terms of the Bourbon circuit court, and for other purposes; an act to amend an act entitled "an act for the benefit of Jonathan Taylor," approved 12th January, 1825; an act for the benefit of William Davis and others; an act for the benefit of the Judge of the tenth judicial district; an act to amend the several acts respecting the turnpike road from the mouth of Triplett's creek to Big Sandy; an act making provision to the keepers of lunatics in certain cases; an act to prohibit the appropriation of a part of the vacan tland in this Commonwealth; an act to authorize Samuel Shannon to sell a slave owned by his ward, Mary Shannon; an act for the benefit of Peter Carr; an act to authorize the purchasers of tobacco to export the same without inspection; an act for the benefit of Robert Davis; an act to provide for removing two slaves, now confined in the jail in Morgantown, to Russellville, for safe-keeping; an act making additional appropriations to defray the expences of General Lafayette's visit; an act to provide for binding out free children of colour; an act for the benefit of Daniel Rowlett, surveyor of Calloway county; an act to alter the time of electing representatives to Congress; an act for the benefit of John Bevins; an act for the benefit of Thomas Bransomb; an act to establish the town of Mount Carmel, in Fleming county, and for other purposes; an act to authorize the editors of the Western Intelligence, Iris, and Columbia Reporter, to insert certain advertisements; an act authorizing the trustees of Elizabethtown to make conveyances in certain cases; an act to authorize the clerks of the M'Cracken circuit and county courts to transcribe certain records; an act for the benefit of Charles Helm; an act for the benefit of Cassandra Abrell and others; an act for the benefit of Cyrus Talbot.

Whereupon the Speaker affixed his signature thereto.

Ordered, That Mr. Prince inform the Senate thereof.

A message from the Governor, by Mr. Loughborough:

Mr. Speaker—The Governor has this day approved and signed the following enrolled bills, which originated in House of Representatives, viz. An act to establish the town of Sharpsburg, in the county of Bath, and for other purposes; an act to authorise certain county courts to permit gates to be put across public roads; an act further to regulate the Bank of the Commonwealth; an act to incorporate the Spring Creek Academy, in Gallatin county; an act to establish election precincts in certain counties, and for other purposes; an act for the benefit of the Simpson Seminary, and for other purposes; an act to continue in force the law providing for the appointment of Commonwealth's Attorneys; an act to establish election precincts in certain counties; an act to provide for removing two slaves now confined in the jail in Morgantown, to Russellville, for safe-keeping; an act for the benefit of Robert Davis; an act to authorise purchasers of tobacco to export the same without inspection; an act to authorise Samuel Shannon to sell a slave owned by his ward, Mary Shannon; an act for the benefit of Peter Carr; an act to prohibit the appropriation of a part of the vacant lands in this Commonwealth; an act making an allowance to Colonel William Steele; an act making provision for the keepers of lunatics in certain cases; an act to encourage the establishment of private schools; an act to amend the several laws regulating the towns of Harrodsburg, Richmond and Hopkinsville; an act to provide for the public expences of the current year; an act to declare Red river a navigable stream; an act to exempt the citizens of Clay and part of Laurel counties from paying toll at the turnpike gate on the Salt-works road; an act for the benefit of the Judge of the 10th judicial district; an act to amend an act entitled "an act for the benefit of Jonathan Taylor," approved the 12th of January 1825; an act for the benefit of William Steele; an act to provide for running the line between the counties of Shelby and Spencer; an act for the benefit of William Davis and others; an act to regulate the terms of the Bourbon circuit court, and for other purposes; an act to amend the several acts respecting the turnpike road from the mouth of Triplett's creek to Big Sandy; an act for the appropriation of money; an act making an additional appropriation to defray the expences of General Lafayette's visit, and a resolution directing the burning of part of the paper of the Bank of the Commonwealth; and on the 17th inst. a resolution relative to an amendment to the constitution of the United States, proposed by the State of Georgia.

And then he withdrew.

Ordered, That Mr. Prince inform the Senate thereof.

Ordered, That a message be sent to the Senate, informing that body, that this house, having finished the legislative business before them, is now ready to close the present session of the General

Assembly, by an adjourment on their part without day; but are nevertheless disposed to continue in session, until it shall suit the views and convenience of the Senate to adjourn also; and that Mr. Yantis carry the said message.

A message from the Senate, by Mr. T. Ward:

Mr. Speaker—The Senate having finished the legislative business before them, I am instructed to inform this house that they are now ready to close the present session of the General Assembly by an adjournment without day; and that they have appointed a committee of three on their part, to meet such committee as may be appointed on the part of this house, to wait on the Governor, and inform him of the intended adjournment of the General Assembly, and to know whether he has any further communications to make.

And then he withdrew.

Whereupon Messrs. Yantis, Underwood, M'Connell, Perrin, Spalding and Maupin, were appointed a committee on the part of this house.

Ordered, That Mr. Yantis inform the Senate thereof.

The Speaker having retired, Mr. Blackburn was called to the chair, when the following resolution was offered by Mr. Sanders, read, and *unanimously* adodted, viz.

Resolved by the House of Representatives, That George Robertson is entitled to the thanks of this house, for the impartial, independent and conciliatory manner in which he has discharged the duties of Speaker, during the present session.

The Speaker having returned to the house, Mr. Yantis, from the joint committee appointed to wait on the Governor, reported that the committee had discharged the duty assigned them, and were informed by the Governor, in reply, that having from time to time, during the session, communicated his views to both branches of the General Assembly, he had *now* no further communication to make.

Whereupon the Speaker having delivered a suitable congratulatory and valedictory address, adjourned the house *sine die*.